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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191056
Party	Plaintiff White Rock Distilleries, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**IN THE MATTER OF APPLICATION**

Mark: PINNACLES RANCHES  
Applicant: Franciscan Vineyards, Inc.  
Serial No.: 77/298,674  
Published in  
the **Official Gazette**: March 17, 2009

WHITE ROCK DISTILLERIES, INC.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91191056
	)	
FRANCISCAN VINEYARDS, INC.,	)	
	)	
Applicant.	)	
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**COMBINED NOTICE OF FILING AND SERVICE OF PAUL W. REIDL  
DEPOSITION TRANSCRIPT AND EXHIBITS THERETO**

Pursuant to 37 C.F.R. § 2.125(a), Opposer, White Rock Distilleries, Inc. ("White Rock"), by its undersigned attorney, hereby gives notice that the certified deposition transcript of Paul W. Reidl, taken January 26, 2011, along with the accompanying exhibits and errata sheet, was served upon Applicant, Franciscan Vineyards, Inc., on February 14, 2011.

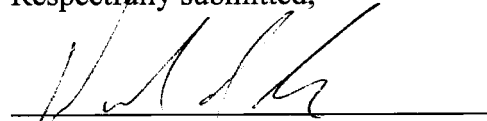
Pursuant to 37 C.F.R. § 2.125(c), White Rock, by its undersigned attorney, hereby submits for filing with the Trademark Trial and Appeal Board the attached certified transcript of

the testimony deposition of Paul W. Reidl, taken January 26, 2011, along with the accompanying exhibits and errata sheet.

Respectfully submitted,

Dated: February 14, 2011

By:



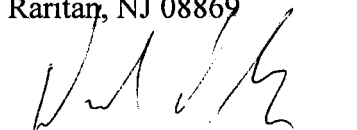
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CERTIFICATE OF SERVICE

Date: February 14, 2011

The undersigned hereby certifies that a true and correct copy of the foregoing Combined Notice of Filing and Service of Paul W. Reidl Deposition Transcript and Exhibits thereto has been served by first class mail, postage prepaid, this 14th day of February 2011 upon Franciscan Vineyards, Inc. at the following correspondence address of its counsel of record:

John M. Rannells, Esq.  
Baker & Rannells, PA  
575 Route 28, Suite 102  
Raritan, NJ 08869

  
Daniel I. Schloss

IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL  
AND APPEAL BOARD

- - - - -x  
FRANCISCAN VINEYARDS, INC.,  
Opposer,

- v -

WHITE ROCK DISTILLERIES, INC.,  
Applicant.

Opposition No. 91185984

Mark: PINNACLE

Serial No.: 78/166,136

- - - - -x  
WHITE ROCK DISTILLERIES, INC.,  
Opposer,

- v -

FRANCISCAN VINEYARDS, INC.,  
Applicant.

Opposition No. 91191056

Mark: PINNACLES RANCHES

Serial No.: 77/598,674

-----x  
200 Park Avenue  
New York, New York

January 26, 2011  
10:17 a.m.

DEPOSITION of PAUL W. REIDL, an  
Expert Witness in the above-entitled  
actions, held at the above time and  
place, taken before Dawn Matera, a Notary  
Public of the State of New York.

\* \* \*

1 APPEARANCES :

2  
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BY: JOHN M. RANNELLS, ESQ.  
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14  
15  
16  
17 \* \* \*

1 PAUL W. REIDL

2 PAUL W. REIDL, an Expert Witness herein,  
3 having first been duly sworn by the  
4 Notary Public, was examined and testified  
5 as follows:

6

7 EXAMINATION BY MR. SCHLOSS:

8 Q. Good morning. Please state  
9 your name for the record.

10 A. My name is Paul Reidl.

11 Q. Mr. Reidl, are you currently  
12 employed?

13 A. I am self-employed.

14 Q. Okay. And what is your work  
15 address?

16 A. 3300 Wycliffe Drive, Modesto,  
17 California 95355.

18 Q. Okay.

19 MR. SCHLOSS: Let's mark Exhibit  
20 1.

21 [The document entitled White  
22 Rock Distilleries, Inc.'s Notice of  
23 Taking Testimony of Paul W. Reidl,  
24 Pursuant to 37 C.F.R. 2.123, was  
25 hereby marked as Exhibit 1 for

1 PAUL W. REIDL

2 identification, as of this date.]

3 BY MR. SCHLOSS:

4 Q. Mr. Reidl, I am showing you  
5 what's been marked as Exhibit 1.

6 Can you tell me if you  
7 recognize that?

8 A. I do.

9 Q. And what do you recognize it to  
10 be?

11 A. It is a notice of taking of  
12 testimony of me in the opposition and the  
13 cancellation of proceedings. Excuse me,  
14 in the two opposition proceedings, as  
15 noted on the first page.

16 Q. Just to be clear, you  
17 understand that your testimony here today  
18 will be used, potentially, in both of  
19 these opposition proceedings?

20 A. That's my understanding.

21 Q. Okay.

22 MR. SCHLOSS: And to that end,  
23 please mark Exhibit 2 for me.

24 [The document entitled  
25 Stipulated Motion To Extend and Reset

1 PAUL W. REIDL

2 Trial Dates and Motion Requesting  
3 Board Approval of Stipulations  
4 Governing Testimony Depositions, was  
5 hereby marked as Exhibit 2 for  
6 identification, as of this date.]

7 BY MR. SCHLOSS:

8 Q. Mr. Reidl, I show you what's  
9 marked as Exhibit 2.

10 Can you tell me if you  
11 recognize that?

12 A. I do.

13 Q. What do you recognize it to be?

14 A. It's a stipulated motion.

15 Q. Calling your attention to  
16 numbered paragraph number 3 on the second  
17 page of that document, have you seen that  
18 particular provision before?

19 A. Yes.

20 Q. So you understand that the  
21 parties have stipulated that your  
22 testimony will be used pursuant to  
23 certain conditions in both opposition  
24 proceedings that we talked about a moment  
25 ago?



1 PAUL W. REIDL

2 A. That's my understanding, but  
3 not from paragraph 3.

4 Q. Okay. Fair enough.

5 MR. RANNELLS: I will stipulate  
6 it's my signature on Exhibit 2.

7 MR. SCHLOSS: Okay. Please mark  
8 this as Exhibit 3.

9 [The document entitled  
10 Stipulated Motion to Extend and Reset  
11 Trial Dates and Motion Requesting  
12 Board Approval of Stipulations  
13 Governing Testimony Depositions, was  
14 hereby marked as Exhibit 3 for  
15 identification, as of this date.]

16 Q. Mr. Reidl, I am showing you  
17 what was marked as Exhibit 3.

18 Can you tell me if you  
19 recognize it?

20 A. I do.

21 Q. What do you recognize it to be?

22 A. It is a stipulated motion.

23 Q. And does it have similar  
24 provisions on numbered paragraph 3 on the  
25 second page regarding the use of your

1 PAUL W. REIDL

2 testimony?

3 A. Paragraph number 3 refers to  
4 Mr. Lilienthal's testimony.

5 Q. I apologize.

6 You would be numbered paragraph  
7 1 on the second page?

8 A. The provisions appear to be  
9 similar.

10 Q. Okay.

11 MR. SCHLOSS: Please mark this  
12 as Exhibit 4.

13 [The document entitled Rule 26  
14 Disclosure Statement and Declaration  
15 of Paul W. Reidl, was hereby marked as  
16 Exhibit 4 for identification, as of  
17 this date.]

18 Q. Mr. Reidl, I am handing you  
19 what's been marked as Exhibit 4.

20 Can you tell me if you  
21 recognize it?

22 A. Yes, I recognize it.

23 Q. What do you recognize it to be?

24 A. It is a Rule 26 report that I  
25 prepared in Opposition 91185984. And

1 PAUL W. REIDL

2 that is my signature on Page 20.

3 MR. SCHLOSS: Finally, the last  
4 of the preliminaries, please mark this  
5 as Exhibit 5.

6 [The document entitled Rule 26  
7 Disclosure Statement and Declaration  
8 of Paul W. Reidl, was hereby marked as  
9 Exhibit 5 for identification, as of  
10 this date.]

11 Q. Mr. Reidl, I am showing you  
12 what's been marked as Exhibit 5.

13 Can you tell me if you  
14 recognize that?

15 A. I do.

16 Q. What do you recognize it to be?

17 A. It is a black and white copy of  
18 the Rule 26 Disclosure Statement that I  
19 prepared on Opposition number 91191056.  
20 And that is my signature on Page 22.

21 Q. Okay. Thank you. All right.

22 Mr. Reidl, some questions about  
23 your background.

24 Did you go to college?

25 A. Yes.

1 PAUL W. REIDL

2 Q. Where was that?

3 A. George Washington University.

4 Q. And what year did you graduate?

5 A. 1977.

6 Q. And what was your degree?

7 A. Bachelor of Arts.

8 Q. Particular major?

9 A. Political science with a  
10 concentration in speech communication and  
11 theology.

12 Q. Okay. And did you do any  
13 graduate work?

14 A. I did.

15 Q. What was that?

16 A. I went to law school at George  
17 Washington University National Law  
18 Center.

19 Q. And did you graduate?

20 A. Yes.

21 Q. What year was that?

22 A. 1980.

23 Q. And are you presently a member  
24 of any bars?

25 A. Yes.

1 PAUL W. REIDL

2 Q. Do you recall which those are?

3 A. I am an inactive member of the  
4 District of Columbia Bar and an active  
5 member of the State Bar of California.

6 Q. Do you have any other degrees  
7 or professional licenses?

8 A. No.

9 Q. Any professional awards or  
10 recognition you've received that you can  
11 recall?

12 A. What do you mean by  
13 "professional awards or recognition"?

14 Q. Any particular accolades or --  
15 that call attention to, in a formal way,  
16 to your work?

17 A. Well, I was elected to Phi Beta  
18 Kappa when I was in college, and elected  
19 to the Order of the Coif and a member of  
20 the law review when I was in law school.

21 I have served in various  
22 positions of the International Trademark  
23 Association. And was the President of  
24 that association in 2006.

25 In 2006, I was named by

1 PAUL W. REIDL

2 Managing Intellectual Property magazine  
3 as one of the 50 most influential people  
4 in intellectual property in the world.

5 Q. Can you describe your  
6 employment history after you graduated  
7 from law school?

8 A. Yes.

9 Q. What was your first job out of  
10 law school?

11 A. I worked for the firm of  
12 Crowell, C-R-O-W-E-L-L & Moring,  
13 M-O-R-I-N-G, in Washington D.C.

14 Q. And approximately, what years  
15 were you employed there?

16 A. I began working for Crowell &  
17 Moring in January 1980 as a law clerk.  
18 And was there until the end of 1990 as an  
19 associate.

20 Q. And what was your next job when  
21 you left that firm?

22 A. I joined or was hired by E&J  
23 Gallo Winery in Modesto, California.

24 Q. Would that have been in 1990?

25 A. I was hired in December of

1 PAUL W. REIDL

2 1990, but I did not start until the first  
3 Monday in February 1991.

4 Q. And what was your initial title  
5 at Gallo?

6 A. I am not sure what my initial  
7 title was, because titles don't really  
8 mean that much.

9 Q. What were your initial job  
10 responsibilities at Gallo?

11 A. My initial job responsibilities  
12 were to handle the litigation matters for  
13 Gallo Winery, which were primarily  
14 trademark matters, to do some general  
15 alcohol beverage work, to do some  
16 marketing review work, to participate in  
17 the marketing function, as I was coming  
18 up to speed on the business.

19 Q. What do you mean by  
20 "participate in the marketing function"?

21 A. Well, once I assumed  
22 responsibility for the trademark  
23 function, which was shortly after I was  
24 hired, and actually, that started even  
25 before then. I worked very closely with

1 PAUL W. REIDL

2 the marketing department in both a  
3 business and a legal capacity on label  
4 development and packaging development  
5 projects.

6 Q. Can you describe, in general  
7 terms, the type -- that type of  
8 involvement?

9 A. Sure. As an attorney who was  
10 responsible for the branding/packaging  
11 functions of the marketing department, I  
12 was a member of the groups, teams, that  
13 put together labels and packaging. And  
14 as such, I attended the meetings, I  
15 participated in the meetings,  
16 participated in the conference calls and  
17 offered both business and legal advice  
18 with respect to labeling and packaging  
19 decisions.

20 I also was part of the group of  
21 senior people who had regular lunches  
22 with the Chairman, Ernest Gallo, in his  
23 lunch room, in which those kinds of  
24 strategic issues were frequently  
25 discussed.



1 PAUL W. REIDL

2 Q. In general terms, can you  
3 describe some of the types of strategic  
4 decision-making that you were involved  
5 with, on the business side?

6 A. Well, without, without  
7 impinging on confidentiality or --

8 Q. Sure.

9 A. -- or attorney/client privilege  
10 obligations --

11 Q. Sure.

12 A. -- off the top of my head, that  
13 would include, that would include  
14 strategic decisions on how to handle,  
15 respond to regulatory issues with, then  
16 it was the Bureau of Alcohol, Tobacco &  
17 Firearms, now the Alcohol and Tobacco Tax  
18 and Trade Bureau, which is the regulatory  
19 agency.

20 It would include strategic  
21 issues on branding and name selection,  
22 positioning. Strategic issues on  
23 packaging, packaging design. On creative  
24 activities. Creative work. That sort of  
25 thing.

1 PAUL W. REIDL

2 Q. Okay. And did your  
3 responsibilities at Gallo change over  
4 time?

5 A. Yes.

6 Q. In what way? Can you describe  
7 the progression?

8 A. After a very short period of  
9 time at Gallo, I assumed responsibility  
10 for the trademark function, both domestic  
11 and international. And that involved not  
12 only the clearance and selection of  
13 trademarks of packaging designs and the  
14 like, it also involved the defense of  
15 those of the company's brands, which is  
16 the responsibility that I had previously.  
17 And it involved regulatory issues related  
18 to the labels and packages that were  
19 placed on the bottle.

20 That put me in -- those things  
21 put me in much closer contact with the  
22 marketing department, as I became, in a  
23 sense, a functional part of that team,  
24 because they were my primary client.

25 When the international business

1 PAUL W. REIDL

2 exploded after the GATT TRIPS Agreement,  
3 which was in the mid-1990s, I assumed  
4 responsibility for the international  
5 aspects of the business with one  
6 carve-out for another lawyer. That  
7 lawyer kept some of the policy issues.

8 Those responsibilities, and my  
9 role as associate general counsel, stayed  
10 that way for most of my tenure there,  
11 although they varied somewhat.

12 There was a reorganization of  
13 the compliance department, for example.  
14 And the day-to-day review of the labels  
15 was moved from legal to compliance. And  
16 then we played a traditional advisory  
17 role to that group.

18 Q. Prior to the restructuring that  
19 you just mentioned, what was the nature  
20 of your involvement with the review of  
21 wine labels?

22 A. Every label that was used on a  
23 bottle was reviewed and approved by me.

24 Q. And was the nature of that  
25 approval -- well, what was the nature of

1 PAUL W. REIDL

2 that approval?

3 A. There were several aspects of  
4 that. There was, of course, the  
5 trademark aspect of that. But there was  
6 also the compliance aspect of that;  
7 making sure that the labels complied with  
8 the regulatory requirements that were in  
9 effect at the time.

10 Q. Was there any other sort of  
11 input you had other than regulatory  
12 requirements with labeling requirements?

13 A. As I mentioned previously, I  
14 was part of the group that developed the  
15 brand names and the overall label  
16 architecture. And I had considerable  
17 input into the selection of the brand  
18 names, the selection of the designs, the  
19 designs of the labels, and so on.

20 Q. What were some of the things  
21 that you considered in evaluating new  
22 wine names?

23 A. Well, speaking generally, and  
24 again, avoiding confidential or  
25 privileged issues, there were really two

1 PAUL W. REIDL

2 general groups of issues that were  
3 considered.

4 The first is your standard  
5 branding issue. What is that, what is  
6 the likely effective or impact of the  
7 name on your target market. Does that  
8 name -- is that an appropriate name for  
9 the purpose of the brand. If it's a  
10 premium brand, is it premium enough. If  
11 it's a fighting varietals, is it  
12 appropriate. Your standard business type  
13 issues.

14 Then, of course, secondly,  
15 there would be the legal considerations  
16 where as a lawyer you would be looking at  
17 distinctiveness-type issues, as well as  
18 your standard availability-type issues.

19 Q. And did you have  
20 decision-making authority with respect to  
21 new wine names, or new labeling or  
22 packaging that were under consideration  
23 at Gallo during your tenure?

24 A. Yes.

25 Q. And how long were you employed

1 PAUL W. REIDL

2 at Gallo?

3 A. 18 years almost to the day.

4 Q. When did you leave Gallo?

5 A. At the end of January 2009.

6 Q. Mr. Reidl, turning more  
7 generally to the United States wine  
8 industry, generally, what is your  
9 understanding of the term terroir in the  
10 wine industry?

11 MR. RANNELLS: Do you want to  
12 spell that for the reporter?

13 MR. SCHLOSS: That's  
14 T-E-R-R-O-I-R.

15 A. Speaking very generally,  
16 terroir refers to the growing conditions  
17 in the geographic location where the  
18 grapes are grown. And that would refer  
19 to things like the quality and nature of  
20 the soils. The amount of precipitation.  
21 The temperature fluctuation. Those sorts  
22 of things.

23 Q. So you may have partially  
24 answered this already, but why would  
25 terroir be important in the context of

1 PAUL W. REIDL

2 making marketing decisions for wines?

3 A. Wine is an agricultural  
4 product. It's a product of the earth.  
5 And historically, going back to Europe,  
6 it has always been strongly linked to the  
7 earth and the climate that historically  
8 has been expressed in a labeling  
9 architecture in Europe called the  
10 Geographical Indication System, where the  
11 names of the products focus on the  
12 geography.

13 In the United States, when the  
14 wine industry began taking root, pardon  
15 the pun, after repeal in the 1930s, there  
16 was no Geographical Indication System in  
17 place, and people, very naturally,  
18 started focusing on geographic terms to  
19 ground the wine in the earth.

20 And over the years and, in  
21 fact, today, those geographic terms are  
22 used both in terms of the federal  
23 government approved American viticultural  
24 areas, but also in terms of brand names  
25 and branding decisions, because it

1 PAUL W. REIDL

2 communicates place and terroir, which  
3 communicates authenticity and grounds the  
4 wine, you know, in the earth to the  
5 consumer.

6 Q. Mr. Reidl, how would you  
7 distinguish between, thinking  
8 specifically about, about terms that  
9 appear on wine labels, how would you  
10 distinguish between a brand and a  
11 trademark?

12 A. Well, first of all, under the  
13 Federal Alcohol Administration Act, which  
14 is the federal statute that created the  
15 regulatory system for alcohol beverages,  
16 including wines, all wine labels must  
17 have a brand name. It's a federal  
18 requirement.

19 And the brand name is  
20 typically, in fact, almost always, the  
21 largest designation on the label. A  
22 brand name is what you call the product.  
23 It's a marketing business concept.

24 A trademark is a legal concept  
25 that was created in common law and is



1                   PAUL W. REIDL  
2       governed by the Lanham Act, in this case.

3                   And a trademark is something  
4       that stands for a single source  
5       identifier. Not all brand names would be  
6       single source identifiers, but all  
7       trademarks would be.

8           Q.       So to be clear, some brand  
9       names could also be trademarks?

10          A.       Yes.

11          Q.       But not all, necessarily?

12          A.       Correct.

13          Q.       Mr. Reidl, based on your  
14       experiences at Gallo and your general  
15       knowledge of the wine industry, what  
16       would you say are the most important  
17       considerations in developing wine labels?

18          A.       Well, I would answer that by  
19       looking at the question from two  
20       different perspectives.

21                   From the perspective of a  
22       trademark lawyer, your preference is to  
23       have a brand name that also functions as  
24       trademark so that you can protect the  
25       name.

1 PAUL W. REIDL

2 Similarly, from a design  
3 standpoint, you would want a label design  
4 or a trade dress design that you can  
5 protect.

6 Also from a legal standpoint,  
7 you would want to have brand names,  
8 designs, packaging that don't step on the  
9 toes of any other third party that's out  
10 there.

11 From a, kind of business or  
12 marketing standpoint, you want a brand  
13 name that doesn't step on anybody's toes,  
14 but you also want a brand name that  
15 resonates with consumers, that will  
16 communicate something about the product  
17 to consumers, that consumers will  
18 remember, and that is appropriate for the  
19 particular type of product, particular  
20 type of wine that it will be used on.

21 For example, a brand name for a  
22 three liter bag of box wine might not be  
23 appropriate for a \$50 premium Napa Valley  
24 red, and vice versa.

25 Q. What role, would you say,

1 PAUL W. REIDL

2 Mr. Reidl, is played by a wine label in  
3 the marketing and advertising of wines?

4 A. Well, your label is the face  
5 that you present to the consumer. And  
6 you would want to have a label or a  
7 package that consumers like and will  
8 remember.

9 More importantly, you would  
10 want something that would help  
11 distinguish the product from other  
12 competitive products or other products  
13 within your product line, as it sits  
14 there on the retail shelf, such that  
15 there is something about the label that  
16 grabs the consumer's attention so that  
17 they will pick it up and look at it, and  
18 hopefully, put it in their shopping cart.

19 MR. RANNELLS: At this time, I  
20 am going to place an objection on the  
21 record.

22 You prefaced this series of  
23 questions with based upon your  
24 experience at Gallo.

25 And I don't know that the

1 PAUL W. REIDL

2 marketing testimony in this, in  
3 response to your questions requires or  
4 lends itself to expert testimony.  
5 It's testimony that any marketing  
6 person at any label can give.

7 BY MR. SCHLOSS:

8 Q. Mr. Reidl, turning for a moment  
9 to the regulation of wine labels, what is  
10 a COLA?

11 A. The term COLA is an acronym for  
12 Certificate of Label Approval. The  
13 Federal Alcohol Administration Act  
14 provides that no producer of wine over  
15 seven percent alcohol can sell that wine  
16 unless the label has been approved by the  
17 federal regulatory agency, which today is  
18 the Alcohol and Tobacco Tax and Trade  
19 Bureau or the TTB.

20 Under the TTB's regulations,  
21 that approval form, if you will, is  
22 called the Certificate of Label Approval  
23 or the COLA.

24 So without a COLA, it is  
25 unlawful to put the label on the package

1 PAUL W. REIDL

2 and sell it in commerce, if the alcohol  
3 is over seven percent.

4 MR. RANNELLS: I am going to  
5 just place the same objection on the  
6 record that this line of questioning  
7 and the responses do not require or  
8 lend themselves to expert testimony.

9 BY MR. SCHLOSS:

10 Q. Mr. Reidl, you mentioned  
11 earlier that your job responsibilities at  
12 Gallo included the review of wine labels,  
13 or draft or mock-ups of wine labels; is  
14 that correct?

15 A. That's correct.

16 Q. Approximately, how many such  
17 labels did you review during your tenure  
18 at Gallo?

19 A. Thousands.

20 Q. Mr. Reidl, what type of  
21 information typically appears on the back  
22 label of a wine?

23 MR. RANNELLS: Same objection.

24 A. Typically, the back label will  
25 contain the mandatory health warning. It

1                   PAUL W. REIDL  
2     will contain the bar code, the SKU  
3     number. Typically, the information about  
4     the bottler or importer will be on the  
5     back label. There is typically some  
6     branding on the back label. And if there  
7     is any room left, there is typically  
8     some, two or three sentences that talk  
9     about the terroir and the flavor of the  
10    wine.

11           Q.       So how would you describe the  
12    relationship between the functions of the  
13    front label and the back label?

14                   MR. RANNELLS: The same  
15    objection.

16           A.       Putting aside the regulatory  
17    features, the back label reinforces the  
18    message on the front label.

19                   MR. SCHLOSS: Please mark this  
20    as Exhibit 6.

21                   [The Label Approval, Serial  
22    number 04-053, was hereby marked as  
23    Exhibit 6 for identification, as of  
24    this date.]

25    BY MR. SCHLOSS:

1 PAUL W. REIDL

2 Q. Mr. Reidl, I am showing you  
3 what's been marked as Exhibit 6.

4 Can you tell me whether you  
5 recognize it?

6 A. Yes.

7 Q. What do you recognize it to be?

8 A. It is an approved Certificate  
9 of Label Approval for an Estancia label.

10 Q. How would you describe the way  
11 in which the term Pinnacles Ranches  
12 appears on this label?

13 A. It is used as a vineyard  
14 designation.

15 MR. RANNELLS: Same objection as  
16 before. And a failure to lay a  
17 foundation.

18 BY MR. SCHLOSS:

19 Q. Mr. Reidl, based on your wine  
20 industry experience, what, in your view,  
21 is the messaging intended to be conveyed  
22 to consumers by this label?

23 MR. RANNELLS: Same objections.

24 A. Well, in a general sense, that  
25 the brand name is Estancia; that the wine

1                   PAUL W. REIDL  
 2     originated in the Monterey growing area;  
 3     that the wine is made from pinot noir  
 4     grapes of the 2002 vintage; that the  
 5     grapes were grown on, in vineyards known  
 6     as Pinnacles Ranches; that they were  
 7     grown by one person, or one group of  
 8     people, hence the phrase proprietor grown  
 9     -- repeats that information and contains  
 10    the certain mandatory elements that are  
 11    required by federal law.

12                   MR. SCHLOSS:   Let's take a short  
 13                   break, please.

14                   (Off the record.)

15   BY MR. SCHLOSS:

16           Q.     Mr. Reidl, looking at the,  
 17    looking further at the label we were just  
 18    discussing, there are some additional  
 19    elements there.

20                   How would you characterize or  
 21    describe the function of the term  
 22    Estancia, on the label?

23           A.     Well, referring to Exhibit 6 --

24                   MR. RANNELLS:   Before you go on,  
 25                   can I just have a continuing objection



1 PAUL W. REIDL

2 with regard to this Exhibit 6, so I  
3 don't have to keep interrupting?

4 MR. SCHLOSS: Sure.

5 MR. RANNELLS: Thank you.

6 A. Can I have the question back  
7 again?

8 (The reporter read back as  
9 follows:

10 "QUESTION: Mr. Reidl, looking  
11 at the, looking further at the label  
12 we were just discussing, there are  
13 some additional elements there.

14 How would you characterize or  
15 describe the function of the term  
16 Estancia, on the label.")

17 A. Looking at Exhibit 6, Estancia  
18 is the brand name. It's the most  
19 dominant word, designation on the label.

20 Q. And towards the center top  
21 portion of the label is a stylized letter  
22 E.

23 How would you describe the  
24 function of that element?

25 A. That's the logo for Estancia,

1 PAUL W. REIDL

2 or I should say the logo for the Estancia  
3 brand.

4 Q. And how would you characterize  
5 the intended messaging behind the words  
6 "proprietor grown" on the label?

7 A. It's a quality cue that is used  
8 to communicate in a general sense that  
9 there was a grape grower who happened to  
10 be the owner who grew the grapes from  
11 which the wine was made.

12 Q. And finally, the significance  
13 of the term Monterey?

14 A. Monterey is the American  
15 viticultural area, although I believe it  
16 is also referred to as Monterey County.  
17 It is a growing area on the central coast  
18 of California, and it communicates the  
19 place, the geographic place where, in a  
20 general sense, where the wine originated.

21 MR. SCHLOSS: Let's mark this as  
22 Exhibit 7.

23 [The Label Approval, Serial  
24 number 05-0081, was hereby marked as  
25 Exhibit 7 for identification, as of

1 PAUL W. REIDL

2 this date.]

3 BY MR. SCHLOSS:

4 Q. Mr. Reidl, I am showing you  
5 what's been marked as Exhibit 7.

6 Can you tell me whether you  
7 recognize it?

8 A. I do.

9 Q. And what do you recognize it to  
10 be?

11 A. It is an approved Certificate  
12 of Label Approval for an Estancia brand  
13 label.

14 Q. Do you recall whether you've  
15 seen this, the context in which you've  
16 seen the particular label approval  
17 before?

18 A. Yes.

19 Q. And what was that?

20 A. When I did my research in  
21 preparation for the Rule 26 reports, I  
22 researched labels in which the term  
23 Pinnacles or Pinnacles Ranches, Pinnacles  
24 Vineyards, where Estancia Pinnacles had  
25 been used. This was one of the

1 PAUL W. REIDL

2 Certificate of Label Approvals that I saw  
3 during that research.

4 MR. RANNELLS: Let me just make  
5 another objection at this time as to  
6 testimony regarding the labeling  
7 approvals that Mr. Reidl saw. Unless  
8 the label approvals are here, they  
9 would be the best evidence.

10 If they are not here, it's just  
11 Mr. Reidl's recollection of what he  
12 may have seen.

13 MR. SCHLOSS: Right.

14 Can we go off the record for a  
15 second?

16 (Off the record.)

17 MR. SCHLOSS: Back on.

18 Q. Mr. Reidl, looking at the label  
19 depicted as Exhibit 7, how would you  
20 describe the intended marketing messaging  
21 behind the term Pinnacles Ranches, as  
22 depicted on this label?

23 MR. RANNELLS: May I have a  
24 running objection with regard to  
25 marketing questions concerning Exhibit

1 PAUL W. REIDL

2 7?

3 MR. SCHLOSS: Sure.

4 MR. RANNELLS: The objection  
5 being that it doesn't require or lend  
6 itself to expert testimony.

7 MR. SCHLOSS: Okay.

8 MR. RANNELLS: Thank you. I am  
9 not asking you to stipulate.

10 MR. SCHLOSS: I know.

11 A. May I have the question back,  
12 please.

13 (The reporter read back as  
14 follows:

15 "QUESTION: Mr. Reidl, looking  
16 at the label depicted as Exhibit 7,  
17 how would you describe the intended  
18 marketing messaging behind the term  
19 Pinnacles Ranches, as depicted on this  
20 label?")

21 A. Looking at the architecture of  
22 the label with Estancia as the brand,  
23 Monterey as the geographic indication,  
24 Pinnacles Ranches is used on the label in  
25 the position, in the manner that would be

1 PAUL W. REIDL

2 consistent with a vineyard designation,  
3 communicating these were the ranches on  
4 which the grapes, the pinot noir groups  
5 were used in this wine were grown.

6 Q. And those ranches are located  
7 in Monterey?

8 A. Yes.

9 Q. And would the same be true of  
10 the messaging reflected in the label  
11 shown in Exhibit 6?

12 A. Yes. Although I would like to  
13 clarify my last answer.

14 Q. Sure.

15 A. Your question was Monterey.  
16 And there are no vineyards in downtown  
17 Monterey.

18 Q. Sure.

19 A. I was -- the label refers  
20 generally to the Monterey County,  
21 American viticultural area, which is  
22 distinct from the City of Monterey.

23 Q. Understood.

24 And how would you describe the  
25 nature of the use of the term Estancia on

1 PAUL W. REIDL

2 the label shown in Exhibit 7?

3 A. Again, Estancia is the most  
4 prominent term on the label. It's the  
5 brand name for the wine.

6 Q. And sorry, the stylized letter  
7 E on the top center of the label shown on  
8 Exhibit 7, how would you characterize  
9 that?

10 A. The stylized letter E is the  
11 logo for the Estancia brand.

12 Q. And how would you describe the  
13 use of the term Estancia as shown on the  
14 back label portion of Exhibit 7?

15 A. Which use?

16 Q. The -- I believe there was a  
17 header on the back label?

18 A. As I mentioned earlier,  
19 sometimes back labels are used to enforce  
20 the primary branding. This would be an  
21 example of that, where you have a second  
22 repeat of the Estancia brand on the back  
23 label.

24 MR. SCHLOSS: Please mark this  
25 as Exhibit 8.

1 PAUL W. REIDL

2 [The Label Approval, Serial  
3 number 05-0015 was hereby marked as  
4 Exhibit 8 for identification, as of  
5 this date.]

6 Q. Mr. Reidl, let me show you  
7 what's been marked as Exhibit 8. And  
8 tell me whether you recognize it?

9 A. I do.

10 Q. What do you recognize it to be?

11 A. This is, again, one of the  
12 Certificates of Label Approval that I  
13 looked at during my research of the  
14 expert reports.

15 Q. And how would you characterize  
16 or describe the appearance of the term --  
17 why don't we just work down.

18 How would you describe the  
19 appearance of the term Estancia and on  
20 the label depicted here?

21 MR. RANNELLS: Same objection.

22 A. Estancia is the largest  
23 designation on the label and the brand  
24 for the wine.

25 Q. And beneath that, the term



1 PAUL W. REIDL

2 Monterey?

3 A. Monterey is the American  
4 viticultural area, that indicates the  
5 growing region where the grapes  
6 originated.

7 Q. Okay. And the term Pinnacles  
8 Ranches near the bottom?

9 A. Again, based on the label  
10 architecture, that term is used to, as a  
11 vineyard designation to communicate that  
12 the pinot noir grapes were grown on those  
13 specific vineyards in the County of  
14 Monterey.

15 Q. And the stylized E logo, the  
16 top center of the front label, how would  
17 you describe that?

18 A. That is the logo for the  
19 Estancia brand.

20 Q. And the appearance of the term  
21 Estancia as shown on the back label of  
22 this Exhibit?

23 A. Which use of Estancia?

24 Q. I am sorry, the first use on  
25 the header.

1 PAUL W. REIDL

2 A. That is an example of  
3 reinforcing the primary brand name that  
4 appears on the label.

5 MR. SCHLOSS: Please mark this  
6 as Exhibit 9.

7 [The Label Approval, Serial  
8 number 06-0081 was hereby marked as  
9 Exhibit 9 for identification, as of  
10 this date.]

11 Q. Mr. Reidl, I am showing you  
12 what's been marked as Exhibit 9.

13 Do you recognize that?

14 A. Yes.

15 Q. What do you recognize it to be?

16 A. It's an executed Certificate of  
17 Label Approval for an Estancia label.

18 Q. And was this a label approval  
19 document that you reviewed in the course  
20 of preparing your expert reports?

21 A. Yes.

22 Q. And how would you characterize  
23 the appearance of the term Estancia shown  
24 on the front label portion of this  
25 document?

1 PAUL W. REIDL

2 MR. RANNELLS: Same objection.

3 A. Estancia is the principal  
4 designation on the label. And it is the  
5 brand name for the wine.

6 Q. And the term Pinnacles Ranches  
7 on the front label of this document?

8 A. Based on the label  
9 architecture, the term Pinnacles Ranches  
10 communicates that the chardonnay grapes  
11 that were used to make this wine were  
12 grown on vineyards named Pinnacles  
13 Ranches in Monterey County, California.

14 Q. And finally, with respect to  
15 this Exhibit, the appearance of the term  
16 Estancia in the header of the back label?

17 A. That reinforces the brand name  
18 Estancia that appears on the front label.

19 Q. All right. And the stylized  
20 letter E, I am sorry, on the front label?

21 A. That is the logo for the  
22 Estancia brand.

23 MR. SCHLOSS: Please mark this  
24 as Exhibit 10.

25 [The Label Approval, Serial

1 PAUL W. REIDL

2 number 07-0151, was hereby marked as  
3 Exhibit 10 for identification, as of  
4 this date.]

5 Q. Mr. Reidl, I am showing you  
6 what's been marked as Exhibit 10.

7 Can you tell me if you  
8 recognize it?

9 A. Yes.

10 Q. Can you tell me what you  
11 recognize it to be?

12 A. This is an executed or approved  
13 Certificate of Label Approval for  
14 Estancia brand wine.

15 Q. And was this one of the labels  
16 that, label approval documents that you  
17 reviewed in the course of preparing your  
18 expert disclosures?

19 A. Yes.

20 Q. And how would you characterize  
21 the appearance of the term Estancia on  
22 the front label portion of this label  
23 approval?

24 MR. RANNELLS: Same objections.

25 A. Estancia is the largest

1 PAUL W. REIDL

2 designation on the label. It is the  
3 brand name for the wine.

4 Q. And the term Pinnacles Ranches  
5 as depicted on the front label portion?

6 A. Based on the label  
7 architecture, that is a vineyard  
8 designation that communicates that the  
9 Sauvignon Blanc grapes that were used to  
10 make the wine were grown in vineyards  
11 called Pinnacles Ranches which is located  
12 in Monterey County, California.

13 Q. You will notice that the back  
14 label portion of this particular label of  
15 the document differs from the last  
16 several label approvals that we looked  
17 at.

18 Can you describe those  
19 differences in general terms?

20 MR. RANNELLS: Objection. The  
21 document speaks for itself.

22 BY MR. SCHLOSS:

23 Q. Can you characterize the --  
24 well, this back label includes a map.

25 Do you see that?

1 PAUL W. REIDL

2 A. I do.

3 Q. And does -- I see that the term  
4 Pinnacles Ranches appears on the map, and  
5 appears to be pointing to a particular  
6 location; is that right?

7 A. Yes.

8 Q. What would be the purpose of  
9 putting a map like this on a back label?

10 MR. RANNELLS: Same objections.

11 A. It further reinforces the  
12 geographic nature of the vineyard  
13 designation by pointing to a specific  
14 place in Monterey County where those  
15 vineyards are located.

16 Q. And what would be the marketing  
17 messaging, as far as -- in your view,  
18 what would be the marketing messaging  
19 behind this further emphasis on the  
20 geographic location of the ranches?

21 MR. RANNELLS: Same objections.

22 A. To have a stronger  
23 communication of the specific geographic  
24 place. I note that the map uses some  
25 fairly well-known places, Monterey Bay,

1 PAUL W. REIDL

2 Carmel, Big Sur, Pacific Ocean, and it  
3 places the vineyards in geographic  
4 proximity to those fairly well-known  
5 locations, which, again, grounds it even  
6 deeper in a specific place.

7 Q. If you know, what would be the  
8 marketing purpose in further highlighting  
9 the geographic location of the ranches?

10 MR. RANNELLS: Same objections,  
11 and in addition thereto, I don't see  
12 how Mr. Reidl can testify as to what  
13 Estancia intended.

14 MR. SCHLOSS: He can testify as  
15 to his view of what they intended.

16 MR. RANNELLS: I didn't say he  
17 couldn't. I am just placing my  
18 objection on the record.

19 MR. SCHLOSS: Okay.

20 A. May I have the question back?

21 (The reporter read back as  
22 follows:

23 "QUESTION: If you know, what  
24 would be the marketing purpose in  
25 further highlighting the geographic

1 PAUL W. REIDL

2 location of the ranches?")

3 A. Well, I don't know what the  
4 Estancia marketing team intended. But,  
5 it's pretty clear that, to me, at least,  
6 that they wanted a heightened stronger  
7 message to consumers that this was the  
8 specific location of these ranches. It's  
9 a more specific message, as opposed to  
10 the generalized message.

11 Q. Calling your attention to the  
12 copy that appears beneath the map, what  
13 would be the -- well, in what way would  
14 that copy relate to the map itself, other  
15 than just mentioning Pinnacles Ranches  
16 again, from a marketing perspective?

17 A. Well, we talked earlier about  
18 the importance of terroir and how back  
19 labels can be used to communicate, in two  
20 or three very short sentences, greater  
21 information about the terroir, and the  
22 taste, and flavor and winemaking  
23 techniques and so on. And this is a  
24 pretty good example of that.

25 The first sentence tells the



1 PAUL W. REIDL

2 reader that, you know, we have, the  
3 grapes are influenced by the costal fog  
4 and warm sunny days and this produces  
5 great Sauvignon Blanc. And then the  
6 remainder talks about, you know, the  
7 specific type of winemaking practices,  
8 specific flavors and food pairings.

9 MR. SCHLOSS: Please mark this  
10 as Exhibit 11.

11 [The Label Approval, Serial  
12 number 08-0174 was hereby marked as  
13 Exhibit 11 for identification, as of  
14 this date.]

15 Q. Mr. Reidl, I am showing you  
16 what's been marked as Exhibit 11.

17 Do you recognize that?

18 A. Yes, I do.

19 Q. What do you recognize it to be?

20 A. It is an approved, a  
21 Certificate of Label Approval for an  
22 Estancia brand of Pinot Noir, and was one  
23 of the Certificates of Label Approval  
24 that I reviewed in the course of  
25 preparing my Rule 26 report.

1 PAUL W. REIDL

2 Q. And -- excuse me one second.

3 (Off the record.)

4 MR. SCHLOSS: Let's mark this as  
5 12.

6 [The Label Approval, Serial  
7 number 08-0173 was hereby marked as  
8 Exhibit 12 for identification, as of  
9 this date.]

10 MR. SCHLOSS: Let's mark this as  
11 13.

12 [The Label Approval, Serial  
13 number 080238 was hereby marked as  
14 Exhibit 13 for identification, as of  
15 this date.]

16 MR. SCHLOSS: This is 14.

17 [The Label Approval, Serial  
18 number 080239, was hereby marked as  
19 Exhibit 14 for identification, as of  
20 this date.]

21 MR. SCHLOSS: 15.

22 [The Label Approval, Serial  
23 number 090268 was hereby marked as  
24 Exhibit 15 for identification, as of  
25 this date.]

1 PAUL W. REIDL

2 BY MR. SCHLOSS:

3 Q. Mr. Reidl, you have just been  
4 given what would have been marked as  
5 Exhibits 12 -- well, in addition to  
6 Exhibit 11 that you were given  
7 originally, you also have been given  
8 what's been marked as Exhibits 12, 13, 14  
9 and 15.

10 Please take a moment, and let  
11 me know when you have finished going  
12 through those.

13 (Witness reviews document.)

14 A. I am ready for your question.

15 Q. Okay. Mr. Reidl, do you  
16 recognize each of these documents?

17 A. Yes.

18 Q. And what do you recognize them  
19 to be?

20 A. They are approved Certificates  
21 of Label Approval that I reviewed in the  
22 course of preparing my Rule 26 reports.

23 Q. And on each of these label  
24 approval documents, how would you  
25 characterize the appearance of the term

1 PAUL W. REIDL

2 Estancia on the front label?

3 MR. RANNELLS: Same objections  
4 as to all the Exhibits.

5 A. Estancia is the most prominent  
6 designation, and is used as the brand  
7 name.

8 Q. And how about the appearance of  
9 the term Pinnacles Ranches on the front  
10 label of each of these Exhibits?

11 A. Given the label architecture,  
12 Pinnacles Ranches is used as a vineyard  
13 designation to communicate the specific  
14 vineyard, vineyards in Monterey County,  
15 California where the particular grape  
16 varietals were grown.

17 Q. And the stylized letter E at  
18 the top center portion of the front  
19 labels on each of these documents?

20 A. The stylized letter E is used  
21 as the logo for the brand name Estancia.

22 Q. Turning to the back label  
23 portions of each of these documents, how  
24 -- does each of those contain a map  
25 showing the location of Pinnacles

1 PAUL W. REIDL

2 Ranches?

3 A. Yes.

4 Q. And how would you characterize  
5 the use of the term Pinnacles Ranches on  
6 each of these back labels?

7 A. As I said with respect to the  
8 previous Exhibit that had the map,  
9 Exhibit 10, Pinnacles Ranches is used as  
10 the name of the ranch, the vineyards in  
11 which the grapes were grown, in Monterey  
12 County, California.

13 Q. Does the term Pinnacles,  
14 standing alone apart from the vineyard  
15 designation, Pinnacles Ranches, appear on  
16 any of the, of any of the COLA documents  
17 that we looked at thus far?

18 A. No.

19 MR. RANNELLS: Can you read back  
20 that?

21 (The reporter read back as  
22 follows:

23 "QUESTION: Does the term  
24 Pinnacles, standing alone apart from  
25 the vineyard designation, Pinnacles

1 PAUL W. REIDL

2 Ranches, appear on any of the, of any  
3 of the COLA documents that we looked  
4 at thus far?"

5 "ANSWER: No.")

6 MR. RANNELLS: I just object to  
7 the use of the word "vineyard  
8 designation."

9 MR. SCHLOSS: What is the  
10 objection?

11 MR. RANNELLS: It doesn't say  
12 vineyard designation on it.

13 MR. SCHLOSS: He's characterized  
14 them as vineyard designations.

15 MR. RANNELLS: As he  
16 characterized it, yes.

17 MR. SCHLOSS: Short break,  
18 please.

19 (Off the record.)

20 MR. SCHLOSS: Mark this as 16.

21 [Color version of neck hangers  
22 for Estancia brand wine, was hereby  
23 marked as Exhibit 16 for  
24 identification, as of this date.]

25 BY MR. SCHLOSS:

1 PAUL W. REIDL

2 Q. Mr. Reidl, I am showing you  
3 what's been marked as Exhibit 16.

4 Can you tell me whether you  
5 recognize what's depicted there? Take  
6 your time.

7 (Witness reviews document.)

8 A. I do.

9 Q. What do you recognize it to be?

10 A. These are neck hangers or  
11 neckers for Estancia brand wine. And  
12 they are color versions of the black and  
13 white versions that you provided to me in  
14 connection with my Rule 26 report.

15 Q. For the record, what are neck  
16 hangers?

17 A. A neck hanger is a point of  
18 sale promotional piece that is designed  
19 to be slipped over the neck of the bottle  
20 and then somewhat folded so that the flat  
21 part is observable to the consumer at the  
22 point of purchase.

23 And a necker can have, can  
24 serve an informational function, or a  
25 coupon-type function or copromotion-type

1 PAUL W. REIDL

2 function.

3 Q. And in your view, what is the  
4 marketing messaging intended to be  
5 conveyed by these neckers?

6 MR. RANNELLS: Same objections.

7 A. Well, these are all for  
8 Estancia wine, and they offer discounts,  
9 either on purchase of Estancia wine or on  
10 a copromotional item.

11 And the purpose is to get  
12 people to pick up the bottle of wine on  
13 the shelf and purchase it.

14 Q. And from the perspective of  
15 brand-specific messaging, how would you  
16 characterize that messaging as reflected  
17 in these neckers?

18 MR. RANNELLS: Same objections.

19 A. It is all for Estancia wine.

20 MR. SCHLOSS: Mark this as 17,  
21 please.

22 [Trade brochure given to  
23 distributors or retailers, was hereby  
24 marked as Exhibit 17 for  
25 identification, as of this date.]



1 PAUL W. REIDL

2 BY MR. SCHLOSS:

3 Q. Mr. Reidl, I am showing you  
4 what's been marked as Exhibit 17.

5 Can you tell me whether you  
6 recognize it?

7 A. I do.

8 Q. What do you recognize it to be?

9 A. This is a color version of a  
10 document that you provided to me that I  
11 understood was produced in discovery and  
12 that I used in connection with my --  
13 preparing my Rule 26 report.

14 It is in the nature of a trade  
15 brochure to be given to distributors or  
16 retailers.

17 MR. RANNELLS: Same objections.

18 MR. SCHLOSS: Sure.

19 Q. Turning initial to the first  
20 three --

21 MR. RANNELLS: I would also  
22 object -- I am sorry.

23 I would also object on the basis  
24 that since Mr. Reidl hasn't worked for  
25 Estancia, he wouldn't know whether or

1 PAUL W. REIDL

2 not what he characterized as a trade  
3 brochure was ever shown to a retailer.

4 MR. SCHLOSS: Okay.

5 Q. Mr. Reidl, showing you --  
6 turning to the first three pages of  
7 Exhibit 17, from a marketing messaging  
8 perspective, what consumer messaging or  
9 retailer messaging, in this case -- well,  
10 let me rephrase that.

11 What messaging would be  
12 conveyed to the recipient of these pages?

13 MR. RANNELLS: The same  
14 objections.

15 A. These three pages all refer to  
16 programs for Estancia wine. They show a  
17 sample floor display for Estancia wine.  
18 Some bottle shots. Some ratings. And  
19 the message is Estancia is a great wine.  
20 You should buy it.

21 MR. RANNELLS: Just for  
22 clarification, you meant the first  
23 three pages, because I have five?

24 THE WITNESS: The first three  
25 pages, that's what I was asked.

1 PAUL W. REIDL

2 MR. SCHLOSS: The first three.

3 And we will ask about the subsequent  
4 part in a moment.

5 Q. Mr. Reidl, directing your  
6 attention to the fourth page, how would  
7 you characterize the messaging to  
8 recipients conveyed by the copy here?

9 A. Well, this gets -- we talked  
10 about the concept of terroir. And the  
11 piece talks about the terroir in Monterey  
12 County, Salinas Valley, the various  
13 vineyards, Santa Lucia Highlands where  
14 the grapes were grown, and provides a  
15 specific map as to where those vineyards  
16 are located.

17 Q. And is one of the vineyards  
18 shown there Pinnacles Ranches, just for  
19 clarity?

20 A. The vineyard that is -- the  
21 piece -- the text of the piece discusses  
22 Pinnacles Ranches. The map references an  
23 Estancia Pinnacles Vineyard.

24 Q. Okay. Turning your attention  
25 to the following page of this Exhibit,

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2 can you, can you describe the messaging  
3 that you believe was intended to be  
4 conveyed by these images in this copy?

5 MR. RANNELLS: The same  
6 objections.

7 A. It's the same as the previous  
8 page. It is a more specific discussion  
9 of the characteristics of Pinnacles  
10 Vineyard.

11 Q. And finally, Mr. Reidl, turning  
12 your attention to the last page of this  
13 Exhibit, can you characterize the  
14 messaging intended to be conveyed by this  
15 page?

16 A. That's a larger version of the  
17 map. It is depicted, as we talked about  
18 earlier, it shows the location of various  
19 vineyards, citing them in Monterey County  
20 between the mountains, close to the  
21 Pacific Ocean, and it shows Pinnacles  
22 Vineyard. And there is a text call-out  
23 above that which shows that the Pinnacles  
24 Vineyard is adjacent to the Pinnacles  
25 Monument.

1 PAUL W. REIDL

2 Q. If you know, what is the  
3 Pinnacles Monument?

4 A. It is a designated wilderness  
5 area in the Gabilan Mountains in  
6 California.

7 MR. RANNELLS: Same objections.

8 Q. Have you been there?

9 A. Yes.

10 [Page shot from the Estancia  
11 Website, [www.estanciaestates.com](http://www.estanciaestates.com), was  
12 hereby marked as Exhibit 18 for  
13 identification, as of this date.]

14 BY MR. SCHLOSS:

15 Q. I am going to show you Exhibit  
16 18, and tell me if you recognize that?

17 A. I do.

18 Q. What do you recognize it to be?

19 A. It's a page shot from the  
20 Estancia Website, [www.estanciaestates.com](http://www.estanciaestates.com).  
21 And it was one of the things I looked at  
22 in preparing my Rule 26 report.

23 Q. In your experience, how do  
24 wineries use Websites in selling and  
25 marketing wine products?

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2 MR. RANNELLS: Same objections.

3 A. Websites have become a very  
4 important tool for wineries to provide  
5 additional information about their wines,  
6 about how they are made, about the  
7 vineyards, additional information about  
8 wines, generally. Additional information  
9 about the company, generally. And also  
10 to gather information about consumers by  
11 having fan clubs, or guest books or that  
12 sort of thing. Very important marketing  
13 tool for wineries these days.

14 Q. Calling your attention to the  
15 image of the 2007 Chardonnay, showing on  
16 the lower left-hand portion of this  
17 printout, what marketing or other  
18 communications do you think were intended  
19 to be conveyed by the depiction of the  
20 Chardonnay shown here?

21 MR. RANNELLS: Same objections.

22 A. Well, it's a glory shot of the  
23 bottle. And you want consumers to see  
24 the package so that they recognize it  
25 when they go to the store and hopefully

1 PAUL W. REIDL

2 purchase it.

3 Q. Is there a particular brand  
4 messaging intended to be conveyed, in  
5 your view, by this depiction of the 2007  
6 Chardonnay?

7 MR. RANNELLS: Same objections.

8 A. Well, it's a bottle of the  
9 Estancia Chardonnay. And the page itself  
10 discusses Estancia Chardonnay, 2007  
11 Vintage.

12 Q. How would you characterize the  
13 appearance of the term Pinnacles Ranches  
14 and/or Pinnacles Vineyards on this page?

15 MR. RANNELLS: Same objections.

16 A. As I said previously with  
17 respect to the map on Exhibit 17, it  
18 explains the location of Pinnacles  
19 Vineyard in the Salinas Valley at the  
20 base of the Gabilan Mountains. It tells  
21 the consumer the specific geographic  
22 place where it's located.

23 Q. Mr. Reidl, in your experience  
24 -- well, let me ask you -- strike that.

25 Mr. Reidl, earlier in your

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2 testimony this morning you talked about  
3 the difference between a brand and a  
4 trademark.

5 What is the difference between  
6 a brand and a subbrand?

7 MR. RANNELLS: Same objections.

8 A. In the wine context, a subbrand  
9 communicates something about the  
10 principal brand of the product.

11 Q. What sort of things might be  
12 communicated?

13 A. Your typical subbrand would be  
14 a vineyard designation that would  
15 communicate to the consumer the specific  
16 vineyard or the specific geographic  
17 location where the grapes were grown that  
18 went into the wine that is being sold  
19 under the principal brand.

20 Q. And earlier in your testimony  
21 you mentioned that while a brand can be a  
22 trademark, not all brands are trademarks.

23 Is the same true with respect  
24 to subbrands?

25 MR. RANNELLS: The same



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2 objections.

3 A. Yes.

4 Q. In other words, a subbrand can  
5 be a trademark, but not all subbrands are  
6 trademarks?

7 A. Correct.

8 Q. Mr. Reidl, in the COLAs we  
9 looked at today during your testimony, is  
10 the term Pinnacles Ranches a subbrand, or  
11 something else or -- is it a subbrand, or  
12 a trademark or both?

13 MR. RANNELLS: The same  
14 objection. Plus it calls for a legal  
15 conclusion.

16 A. The designation Pinnacles  
17 Ranches, as used on those labels, is  
18 clearly subordinate to the principal  
19 brand Estancia. It is being used as a  
20 geographic term to tell consumers the  
21 specific geographic place where the wine  
22 grapes were grown that went into the  
23 Estancia brand wine.

24 Q. And in the other materials that  
25 we've looked at today, is there anything

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2 that has messaging behind the term  
3 Pinnacles Ranches that differs in some  
4 way from what you've just described?

5 MR. RANNELLS: Same objections.

6 A. No.

7 Q. Mr. Reidl, in the context of a,  
8 of wine bottles, wine packaging, what is  
9 a capsule?

10 MR. RANNELLS: Same objections.

11 MR. SCHLOSS: Sorry, what's the  
12 objection in this case?

13 MR. RANNELLS: That the question  
14 does not require or lend itself to  
15 expert testimony.

16 MR. SCHLOSS: Okay.

17 MR. RANNELLS: It's my  
18 understanding that the purpose of  
19 Mr. Reidl testifying here today is  
20 that you're relying upon his testimony  
21 as expert testimony.

22 MR. SCHLOSS: Yes.

23 MR. RANNELLS: That's the basis  
24 of my objection.

25 MR. SCHLOSS: Okay.

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2 A. May I have the question back,  
3 please?

4 (The reporter read back as  
5 follows:

6 "QUESTION: Mr. Reidl, in the  
7 context of a, of wine bottles, wine  
8 packaging, what is a capsule?")

9 A. A capsule is a PVC sleeve that  
10 is dropped over the neck of the bottle  
11 during the bottling process, and it  
12 serves the function of protecting the  
13 cork, providing some aesthetic value to  
14 the package, and if it is long enough,  
15 and most of them are, it covers the gap  
16 between the fill line and the bottom of  
17 the cork.

18 Q. Are there any other functions  
19 served by a capsule?

20 MR. RANNELLS: Same objections.

21 A. There is an aesthetic function  
22 in sometimes you see -- sometimes it is  
23 used to provide yet another opportunity  
24 to reinforce the branding on the  
25 principal label of the product.

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2 MR. SCHLOSS: Off the record for  
3 a second.

4 (Off the record.)

5 MR. SCHLOSS: Exhibit 19.

6 [Photographs of a 2008 Chardonnay  
7 produced by Franciscan, was hereby  
8 marked as Exhibit 19 for  
9 identification, as of this date.]

10 MR. RANNELLS: I will stipulate  
11 that this document is an Exhibit in  
12 another testimony deposition that we  
13 took in San Francisco, and that I am,  
14 my client is not claiming this to be  
15 confidential.

16 MR. SCHLOSS: Thank you.

17 Q. Mr. Reidl, I am showing you  
18 what's been marked as Exhibit 19. And I  
19 am going to represent to you that Exhibit  
20 19 consists of images in the nature of  
21 photographs of a 2008 Chardonnay produced  
22 by Franciscan.

23 In looking at the label  
24 depicted on this Chardonnay, what is the  
25 intended consumer messaging, in your

1 PAUL W. REIDL

2 view?

3 A. Well, the brand name is  
4 Estancia.

5 MR. RANNELLS: I am sorry, the  
6 same objections.

7 A. And it has the Estancia logo.  
8 Below the Estancia logo, the information  
9 communicates to consumers that the wine  
10 is made from chardonnay grapes. And it  
11 was grown in Monterey County on vineyards  
12 known as Pinnacles Ranches. That they  
13 were harvested in the year 2008. And  
14 that some special care was given to the  
15 making of the wine because it was  
16 handcrafted.

17 Q. For a moment, just turning  
18 quickly to the second page of the  
19 Exhibit, there is a map depicted there  
20 with some copy.

21 Is that map -- is that map and  
22 is that copy consistent with the COLAs  
23 that we looked at this morning reflecting  
24 similar wrap and copy, as far as you can  
25 tell?

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2 A. It better be identical to the  
3 COLAs that we looked at this morning.

4 Q. Fair enough.

5 A. But in terms of messaging, yes,  
6 it's the same messaging.

7 Q. All right. Turning your  
8 attention back to the first page of the  
9 Exhibit, and then also to the third and  
10 fourth pages, well, maybe not the fourth,  
11 because the fourth is particularly  
12 difficult to read, but the first and  
13 third pages depict, in part, the capsule  
14 portion of this 2008 Chardonnay.

15 Can you tell what's depicted on  
16 the capsule portion?

17 A. The photo was blurry, but the  
18 term that appears there is the word  
19 Pinnacles, and I know that because I  
20 observed this package on a retail shelf  
21 at a supermarket in Modesto, California,  
22 as I explained in my Rule 26 report.

23 Q. Right.

24 MR. RANNELLS: I just put on the  
25 record that the photograph taken

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2 that's comprised of Exhibit 19 were  
3 taken with a cell phone in a cabinet  
4 at the offices of Constellation Wines  
5 U.S., and that's probably why they are  
6 blurry.

7 THE WITNESS: And here I thought  
8 it was my glasses.

9 MR. SCHLOSS: Off the record for  
10 a second.

11 (Off the record.)

12 [2005 Chardonnay produced by  
13 Franciscan, was hereby marked as  
14 Exhibit 20 for identification, as of  
15 this date.]

16 BY MR. SCHLOSS:

17 Q. Mr. Reidl, I am showing you  
18 what's been marked as Exhibit 20. And I  
19 will represent to you that that is a 2005  
20 Chardonnay produced by Franciscan.

21 Calling your attention to the  
22 capsule portion of that bottle, can you  
23 describe what appears there?

24 MR. RANNELLS: Same objections.

25 A. The top of the capsule has the

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2 Estancia logo, and reinforces the logo  
3 design on the front.

4 The bottom of the capsule has  
5 three impressions of the word Pinnacles  
6 in a gold type parallel to the bottom of  
7 the capsule.

8 Q. And what, in your view, is the  
9 messaging conveyed, if any, by the term  
10 Pinnacles on the capsule of this bottle?

11 MR. RANNELLS: Same objections.

12 A. I don't believe it conveys any  
13 message. It's just there.

14 Q. When you say you don't believe  
15 it conveys any message, why is that?

16 MR. RANNELLS: Same objection.

17 A. There are several reasons.  
18 First of all, it doesn't reinforce any  
19 branding on the front label or the back  
20 label.

21 Secondly, the type is so small,  
22 and the font is so small that from the  
23 standpoint of a retail shelf, the  
24 consumer can't see it. And I know that  
25 because when I was looking for this



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2 product and I observed it on the shelf at  
3 the supermarket, you could see a gold  
4 band around the bottom, but the word was  
5 not -- was simply not legible. And  
6 because the word was not legible, it  
7 would not serve a function to consumers  
8 to communicate anything about the  
9 package.

10 Stated somewhat differently,  
11 they couldn't make a purchasing decision  
12 based on something that they could not  
13 see.

14 And the third reason I would  
15 say that is if, in fact, they wanted to  
16 create an independent consumer  
17 impression, doing that on the capsule,  
18 due to production reasons, would not make  
19 a great deal of sense.

20 Q. What do you mean by "production  
21 reasons"?

22 A. You will notice on Exhibit 19  
23 how the term Pinnacles appears to be  
24 centered straight down through the E on  
25 the package.

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2 And on Exhibit 20, it's  
3 off-center, so that if you look at it  
4 straight on, you see an N-A-C-L-E-S and  
5 then a space and a P-I. So you don't  
6 even see the complete impression of the  
7 word. That's due to the way that these  
8 capsules are placed on the bottle. As  
9 the bottle comes down the bottling line,  
10 there is a -- it gets filled. It gets  
11 corked.

12 Q. Is that by a machine?

13 A. By a machine. The capsules  
14 are, several hundred at a time, stacked  
15 up in the machine. And they are just  
16 dropped down onto the bottle and then  
17 clamped. And then the labels are  
18 applied.

19 So because of the randomness of  
20 the manner in which the capsule is placed  
21 on the bottle, there is no way, from a  
22 production standpoint, that you can  
23 guarantee that all of those capsules  
24 would be dead bang centered on the front  
25 label, especially if the front label

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2       isn't yet on the bottle, because you  
3       don't know where the front of the bottle  
4       is going to be.

5                   And that would explain why the  
6       two were off-center on Exhibits 19 and  
7       20.

8                   I should add to that, that the  
9       bottles that I observed of the Estancia  
10      Pinnacles Ranches wines were very similar  
11      to this, in that the -- or to Exhibits 19  
12      and 20, in that the capsules were not  
13      uniformly placed on the bottle. They  
14      were in different positions vis-à-vis the  
15      midline of the label.

16           Q.       So the lettering appeared  
17      differently?

18           A.       Yes.

19                   MR. SCHLOSS:   Short break.

20                   (Off the record.)

21                   (Lunch recess.)

22                   (Time noted: 12:32 p.m.)

23

24

25                   A F T E R N O O N           S E S S I O N

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2 (Time noted: 1:46 p.m.)

3  
4 EXAMINATION BY MR. SCHLOSS (Continued):

5  
6 Q. Good afternoon, Mr. Reidl. I  
7 wanted to return for a few moments to  
8 your tenure as President of INTA.

9 Can you describe some of the  
10 activities that you were involved with as  
11 president that were specific to the wine  
12 industry?

13 A. There were several things that  
14 come to mind, as I sit here, and I am  
15 sure that there were others since the  
16 wine and alcohol members of INTA are very  
17 important members to that association.

18 The first thing I recall is  
19 there had been a misunderstanding within  
20 the patent trademark office over the  
21 application of Article 22 of TRIPS, and  
22 the implementation of that by amendments  
23 to the Lanham Act, specifically with  
24 respect to the registration of geographic  
25 brand names for wine.

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2 Many examining attorneys were  
3 taking the position that Article 22 is  
4 absolute and that no geographic term  
5 could be registered for wine.

6 The industry view, as well as  
7 my own view and INTA's view was that that  
8 was incorrect, and that the proscriptions  
9 of Article 22, as incorporated into the  
10 Lanham Act, were applied only to  
11 geographic indications, which is a small  
12 subset of the overall geographic  
13 designation question.

14 I met with the then  
15 Commissioner for Trademarks Lynne  
16 Beresford, discussed that issue and some  
17 other issues that were unrelated to it;  
18 worked with a team to put together the  
19 appropriate position paper and  
20 successfully persuaded the patent  
21 trademark office to change its view on  
22 the application of Article 22, TRIPS.

23 In addition to, that there was  
24 work that was done on an international  
25 scale with respect to rules regarding

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2 geographic indications, primarily in  
3 Europe and certain bilateral agreements  
4 and negotiations between the United  
5 States and other countries in the  
6 European Union over the application of  
7 geographic indications to trademarks.

8 Specifically, INTA developed  
9 and advocated a first in time, first in  
10 right policy with respect to resolving  
11 priority disputes. And I signed,  
12 reviewed, worked on a number of  
13 communications with various organizations  
14 including the United States Government  
15 with respect to that.

16 The third issue I can think of  
17 is the 2006 amendments to the dilution  
18 provision, provisions of the Lanham Act,  
19 I was heavily involved in that, both  
20 before I became president and as  
21 president.

22 I believe, but am not sure,  
23 that there was a TTB rulemaking at the  
24 time, as well as some other things going  
25 on with TTB regarding the application of

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2 geographic indications, and have all  
3 caught up in the Napa Ridge controversy.  
4 And INTA and I were involved in that, as  
5 well.

6 There may be other things, I am  
7 sure there are, but that is what I can  
8 recall, as I sit here.

9 Q. Briefly, what was the Napa  
10 Ridge controversy?

11 A. In a nutshell, a producer, not  
12 -- a -- the TTB's geographic indication  
13 rules grandfather brand names existing in  
14 Certificates of Label Approval prior to a  
15 certain date. And there was a producer  
16 who bought a bottling facility in Napa  
17 Valley and acquired the Napa Ridge  
18 trademark, and was, on the authority of  
19 that exception, if you will, of  
20 grandfathering, was bottling non-Napa  
21 wine or non-Napa County wine in Napa  
22 Valley and using the Napa Ridge brand  
23 name.

24 It was extremely controversial  
25 in the wine world and in the trademark

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2 world. There was a lot of litigation,  
3 and rulemaking and other high-level  
4 policy discussions surrounding that.

5 Q. Mr. Reidl, I am not sure  
6 whether you already mentioned this when  
7 you talked about some of your INTA  
8 activities, but at some point, do you  
9 recall giving a training session to  
10 trademark examining attorneys who deal  
11 with Class 33 goods?

12 A. Yes.

13 Q. And the -- what was the -- was  
14 the subject matter of that training  
15 session largely related to the TRIPS  
16 issues that you mentioned?

17 A. Yes. INTA has regularly had  
18 sit-down sessions with examining  
19 attorneys with the objective of educating  
20 the examining attorneys to the branding  
21 specific issues in their industry, or how  
22 their industries function, or so on and  
23 so forth.

24 I gave a presentation to the  
25 examining attorneys on wine brand names,



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2 explaining to them the various origins of  
3 those names, and as part of that, went  
4 through some of the materials that are in  
5 my Rule 26 report about the importance of  
6 terroir and geography, and so on and so  
7 forth.

8 I took that opportunity to  
9 address head on what I believed was a  
10 misapplication of Article 22 of TRIPS to  
11 all geographic brand names, as opposed to  
12 those that were just geographic  
13 indications.

14 So that was a precursor to the  
15 activities that I undertook as INTA  
16 President.

17 Q. Mr. Reidl, turning for a moment  
18 to a couple of the conclusions in your  
19 Rule 26 disclosure, one of the  
20 conclusions that you reached, it's in  
21 paragraph 27 of your disclosures in the,  
22 in the original Pinnacles opposition, was  
23 that --

24 MR. RANNELLS: Exhibit 4?

25 MR. SCHLOSS: Yes.

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2 Q. -- was that the term Pinnacles,  
3 standing alone that is, has, at most,  
4 weak trademark significance.

5 Why did you reach that  
6 conclusion?

7 MR. RANNELLS: Same objection as  
8 to, that I made before, regarding that  
9 that does not require or lend itself  
10 to expert testimony.

11 A. The registration of Pinnacles,  
12 as you know, have been on the principal  
13 register for a considerable period of  
14 time. It was originally registered by, I  
15 believe it was Paul Masson who -- an  
16 organization that no longer exists, and  
17 it's gone through several assignments to  
18 its current owner.

19 When you ask yourself what  
20 constitutes a strong trademark, you look  
21 at the traditional indicia of sales,  
22 promotional expenditures, consumer  
23 recognition over time. The Certificates  
24 of Label Approval reflects that Pinnacle  
25 has not been used on a label for a

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2 considerable period of time. It has not  
3 been used as a principal brand name for a  
4 considerable period of time. That in the  
5 documents that were provided to me, there  
6 was no, there was no indication of sales  
7 of a Pinnacles wine. There was no  
8 indication of promotional expenditures  
9 for a Pinnacles wine. There were no  
10 point of sale materials for Pinnacle  
11 wine. There was no label for Pinnacles  
12 wine. There was no marketing plans for  
13 Pinnacles wine. There was no business  
14 plan for Pinnacles wine. There was  
15 nothing that would reflect or suggest  
16 that Pinnacles has been used in any way  
17 that would have developed any kind of  
18 consumer recognition.

19 And therefore, while I  
20 understand the board has held that the  
21 registration was valid because it  
22 believes that the use on the capsule is  
23 sufficient, it is a technically valid  
24 trademark, but not one that has any  
25 strength in terms of the traditional

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2 indicia for measuring strength.

3 Q. Mr. Reidl, turning to your  
4 expert disclosure in the Pinnacles  
5 Ranches Opposition. Paragraph 22.

6 At the header preceding  
7 paragraph 22, you state --

8 MR. RANNELLS: For the record,  
9 we're referring to Exhibit 5, right?

10 MR. SCHLOSS: Exhibit 5, yes,  
11 thank you.

12 Q. -- "The designation Pinnacles  
13 Ranches has not acquired trademark  
14 significance."

15 And then in the header  
16 preceding paragraph 35 of the same  
17 document, you state and explain in some  
18 detail that "The term Pinnacles Ranches  
19 is a weak geographic term."

20 Can you explain the reason for  
21 those conclusions?

22 MR. RANNELLS: Same objection.

23 A. As with my previous answer, the  
24 question turns on what the brand owner  
25 has done to establish consumer

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2 recognition as a single source  
3 identifier.

4 And we spoke previously about  
5 the difference between a brand name or  
6 label designation and a trademark, with  
7 the latter being a single source  
8 identifier.

9 If you look at the usage of the  
10 designation by Franciscan, the  
11 traditional indicia for developing  
12 trademark significance, it's used  
13 exclusively as a finger designation, a  
14 designation place.

15 It's used exclusively in  
16 connection with the primary brand  
17 Estancia and other geographic terms such  
18 as Monterey County, Salinas Valley that  
19 reinforce the consumer perception that  
20 the term is one of geographic place.  
21 It's used on a map adjacent to the  
22 Pinnacles National Monument.

23 There are no independent sales  
24 of a wine called Pinnacles Ranch or  
25 Pinnacles Ranches. There are no

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2 independent promotional expenditures of  
3 such a wine. There is no residual  
4 goodwill from a Pinnacle brand even  
5 because that hasn't been used on its own  
6 for so long.

7 And when you look at the  
8 marketing materials, some of which we've  
9 looked at today, you look at the back  
10 labels, you see that the people who put  
11 together the labels seem to have made a  
12 conscious decision to emphasize the  
13 geographic nature of the term by talking  
14 about the vineyards, by talking about the  
15 location of the vineyards, by having a  
16 map indicate the location of the  
17 vineyards.

18 All of which would seem, in my  
19 view, to reflect that they are treating  
20 this as a geographic term and not  
21 attempting to develop trademark  
22 significance for it.

23 And even if they had  
24 inadvertently been developing trademark  
25 significance, none of the traditional

1                   PAUL W. REIDL  
2       indicia for that are present.

3                   MR. RANNELLS:   Before you go on,  
4       I will just put an objection on the  
5       record, to the extent that the  
6       testimony is meant to attack the  
7       validity of the Pinnacles'  
8       registration, it's the -- I would just  
9       put on the record that the mark is  
10      incontestable.

11                  And with regard to Pinnacles  
12      Ranches, I would object on the basis  
13      that some of the issues concerning  
14      both of these cases, or at least the  
15      first case, and issues of abandonment  
16      and/or whether the mark functions as a  
17      trademark, have already been  
18      determined by summary judgment.

19                  MR. SCHLOSS:   I would just say  
20      in response that even incontestable  
21      marks can be weak.   And I would say,  
22      as well, there has been no finding of  
23      any kind with respect to Pinnacles  
24      Ranches, whether it's used as a  
25      trademark or otherwise.   Okay.

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2 [The document entitled  
3 Declaration of Ronald C. Fondiller,  
4 was hereby marked as Exhibit 21 for  
5 identification, as of this date.]

6 BY MR. SCHLOSS:

7 Q. Mr. Reidl, I am showing you  
8 what has been marked as Exhibit 21.

9 Can you tell me whether you  
10 recognize that?

11 A. I have seen that, yes.

12 Q. What do you recognize it to be?

13 A. This is a Declaration of Ron  
14 Fondiller in support of a motion to  
15 dismiss that was made in response to a  
16 declaratory judgment action that was  
17 brought by White Rock Distilleries in the  
18 Northern District of California.

19 Q. Did you review this declaration  
20 in connection with the preparation of  
21 your Rule 26 disclosure?

22 A. Yes.

23 Q. At paragraph 4 of  
24 Mr. Fondiller's declaration, he states  
25 "Under the circumstances, it was never



1 PAUL W. REIDL

2 the intention of FVI to challenge WRD's  
3 current use of its Pinnacle trademark,  
4 i.e., on vodka and flavored vodkas.

5 We have never made and never  
6 will make any demands on WRD to cease and  
7 desist from its current use of the  
8 Pinnacle trademark.

9 Our sole concern is the  
10 registration of WRD's Pinnacle  
11 application and international Class 33 in  
12 the USPTO. As such, a registration  
13 necessarily would weaken FVI's,  
14 Pinnacle's registration."

15 In your disclosures, at  
16 paragraph 30 --

17 MR. RANNELLS: Which Exhibit?

18 MR. SCHLOSS: This would be  
19 Exhibit 4.

20 Q. -- you stated at the bottom of  
21 Page 14 and the top of Page 15, referring  
22 to part of Mr. Fondiller's statement that  
23 I just read, "Implicit" -- this is in  
24 your expert disclosure, you say "Implicit  
25 in this statement is the assumption that

1                   PAUL W. REIDL  
2     consumer confusion is unlikely, otherwise  
3     the company with the resources of  
4     Constellation would not have hesitated to  
5     protect its franchise and its loyal  
6     consumers from consumer confusion."

7                   Can you explain why you, why  
8     you reached that understanding?

9                   MR. RANNELLS:   Objection.   Does  
10    not require or lend itself to expert  
11    testimony.

12                  MR. SCHLOSS:   Well, I am asking  
13    why he said what he said in his expert  
14    disclosure.

15                  MR. RANNELLS:   Right.   And I am  
16    objecting to it as expert testimony.

17                  MR. SCHLOSS:   Okay.

18                  MR. RANNELLS:   Or as the need to  
19    have an expert make such a statement.

20                  MR. SCHLOSS:   Okay.

21           A.     May I have the question back,  
22    please?

23                         (The reporter read back as  
24    follows:

25                         "QUESTION:   You stated at the

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2 bottom of Page 14 and the top of Page  
3 15, referring to part of  
4 Mr. Fondiller's statement that I just  
5 read, "Implicit" -- this is in your  
6 expert disclosure, you say "Implicit  
7 in this statement is the assumption  
8 that consumer confusion is unlikely,  
9 otherwise the company with the  
10 resources of Constellation would not  
11 have hesitated to protect its  
12 franchise and its loyal consumers from  
13 consumer confusion."

14 Can you explain why you, why you  
15 reached that understanding?")

16 A. It is -- my reaction to  
17 paragraph 4 of the declaration was that  
18 it was a remarkable statement to make  
19 because it essentially acknowledged that  
20 the two brands could coexist without any  
21 marketplace impact on Pinnacles brand.  
22 And that necessarily would mean that  
23 there was no Pinnacles franchise to  
24 protect.

25 So I read this and was frankly,

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2 I was quite astonished. And that's the  
3 only reason I could think of why that  
4 statement would be made because I've  
5 observed Constellation over the years; if  
6 they have a franchise to defend, they  
7 defend it and defend it aggressively.

8 Q. Constellation being the parent  
9 company of Franciscan?

10 A. Yes.

11 MR. SCHLOSS: Take five minutes.

12 (Off the record.)

13 MR. SCHLOSS: Thank you,

14 Mr. Reidl.

15 I think we're done with the  
16 direct portion of our questioning.

17

18 EXAMINATION BY MR. RANNELLS:

19 Q. Good afternoon, Mr. Reidl. My  
20 name is John Rannells from Baker and  
21 Rannells, PA. We represent Franciscan  
22 Vineyards, Inc. in these two proceedings.

23 If I say anything to you, or  
24 ask you a question and you don't  
25 understand what I am saying, or you want

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2 clarification, please just let me know  
3 and I will do my best to rephrase the  
4 question to make it as clear as possible.

5 If you need to take a break at  
6 any time, for any reason, let me know so  
7 we can afford you that opportunity.

8 A. Got it.

9 MR. RANNELLS: Are we going to  
10 continue from the numbering from the  
11 last one?

12 MR. SCHLOSS: That's fine.

13 MR. RANNELLS: We are on 22.

14 [The document depicting the  
15 search site for Certificates of Label  
16 Approval, was hereby marked as Exhibit  
17 22 for identification, as of this  
18 date.]

19 Q. Mr. Reidl, the reporter has  
20 just handed you what's been marked as  
21 Exhibit 22. Do you recognize this type  
22 of form?

23 A. This is the homepage, if you  
24 will, of the search site for Certificates  
25 of Label Approval that is maintained by

1 PAUL W. REIDL

2 the Alcohol and Tobacco Tax and Trade  
3 Bureau.

4 Q. And did you use this form or  
5 this search engine in doing the searches  
6 that you refer to in your two reports?

7 A. Can I have the question back,  
8 please.

9 (The reporter read back as  
10 follows:

11 "QUESTION: And did you use this  
12 form or this search engine in doing  
13 the searches that you refer to in your  
14 two reports?")

15 A. I used the search engine.

16 Q. Okay. And under Product Name,  
17 what terms did you insert in the section  
18 for Product Name in conducting your  
19 searches?

20 A. Well, I did several searches.  
21 I did a search for Pinnacle. I did a  
22 search for Pinnacles, plural. I did a  
23 search for Pinnacles Ranches, for  
24 Pinnacles Vineyard. I did a search for  
25 Estancia. I did a search for Franciscan.

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2 I did a search for at least one of the  
3 other vineyard properties held by  
4 Franciscan as part of the Salinas Valley  
5 holdings. I can't remember the name of  
6 it. And I probably did some others, as  
7 well.

8 Q. Did you do a search -- did you  
9 search the term Paul Masson?

10 A. I don't recall.

11 Q. Did you search for both Brand  
12 Names and Fanciful Names?

13 A. I used the category Either.

14 Q. To your knowledge, is there a  
15 statutory or regulatory definition of the  
16 term Fanciful Name?

17 A. I believe, but am not certain,  
18 that it refers to a designation on the  
19 label other than the AVA or the brand  
20 name.

21 Q. And what is your understanding  
22 of what the term Fanciful Name means in  
23 so far -- when it's used in the context  
24 of a COLA search?

25 A. If I can draw your example to

1 PAUL W. REIDL

2 Exhibit 6, which is a COLA form.

3 Q. Yes.

4 A. You will see on line 5, there  
5 is a space for the "Brand Name," and it  
6 says "(Required)."

7 On line 6, there is a space for  
8 "Fanciful Name (If any)," because it is  
9 not required.

10 In my experience -- the top  
11 part of the form is filled out by the  
12 compliance person who represents the  
13 brand owner, which could be a third-party  
14 company or it could be a compliance  
15 person for the particular organization.

16 If you look at the COLAs here,  
17 you will see Pacific Wine Partners, d/b/a  
18 Estancia Estates is filled out in Exhibit  
19 6. There's one -- Franciscan has filled  
20 one out. And I think even Constellation  
21 has filled one out.

22 So, what goes in that box 5 and  
23 6 is self-selected by the compliance  
24 person who completes the form. And then  
25 the TTB representative who reviews the



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2 form will look at the label and satisfy  
3 themselves that that is accurate.

4 So the compliance person  
5 selects the Brand Name, selects the  
6 Fanciful Name, whatever they feel is a  
7 Fanciful Name, if any, on the label. And  
8 that's my understanding of how that is  
9 completed.

10 Q. With regard to the term  
11 Fanciful Name, would a varietal, for  
12 example, chardonnay, pino noir, would  
13 those be considered fanciful names?

14 A. A pure varietal name, no.

15 Q. To your knowledge, do people in  
16 the industry ever put in varietal names  
17 under the Fanciful Name in their COLA  
18 applications?

19 A. I am not aware of that being  
20 done. However, there are -- for  
21 nonvarietal designated names, it is  
22 possible to create the name for the wine  
23 that would be a Fanciful Name. And to  
24 that extent, it would be in box 6.

25 Q. What was Gallo's customary use

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2 of the -- or did they make any customary  
3 use of the Fanciful Name box, to your  
4 knowledge?

5 A. To the extent there was a  
6 Fanciful Name on the label, and it would  
7 be in box 6.

8 Q. It said Fanciful Name is not  
9 required.

10 If there is a secondary name on  
11 a label, would it then be -- would there  
12 be a requirement of putting that  
13 secondary mark or designation in the  
14 Fanciful Name box?

15 A. Yes.

16 Q. And is that set by statute or  
17 regulation?

18 A. I believe that's regulation.

19 Q. When you did your searches of  
20 the COLAs, were you able to obtain in  
21 each case an actual copy of the label  
22 approval on the search engine Website  
23 itself?

24 A. The answer to your question is  
25 no because, as reflected in paragraph 15,

1 PAUL W. REIDL

2 line 9 of my report --

3 Q. Just identify the Exhibit  
4 number for the record, please?

5 A. Oh, I am sorry. That's Exhibit  
6 4.

7 Q. Right.

8 A. Page 7, line 9. The images  
9 only go back to 1999. So the data is  
10 there, but there is no image.

11 For every COLA that was after  
12 1999, there was an image. For those that  
13 were before, there was not.

14 Q. And for the ones prior to that  
15 time, when the images are available, is  
16 there a way of obtaining a copy of the  
17 actual label approvals that you know of?

18 A. Could I have the question back,  
19 please.

20 (The reporter read back as  
21 follows:

22 "QUESTION: And for the ones  
23 prior to that time, when the images  
24 are available, is there a way of  
25 obtaining a copy of the actual label

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2 approvals that you know of?")

3 A. You'll have to repeat the  
4 question again.

5 Q. How about if I rephrase it and  
6 make it clear.

7 You said prior to a certain  
8 period of time the images are not  
9 available, correct, on the Website?

10 A. Correct.

11 Q. Okay. Is there a way of  
12 obtaining a copy of the actual label  
13 approval for those that are identified,  
14 but for which no image is available?

15 A. Yes.

16 Q. All right. And did you, in  
17 fact, obtain copies of any of those  
18 labels?

19 A. I did not, because I didn't  
20 feel it was really necessary for the  
21 report.

22 Q. Okay.

23 (Off the record.)

24 [The abstract of a Certificate  
25 of Label Approval for Estancia

1 PAUL W. REIDL

2 Pinnacles, was hereby marked as  
3 Exhibit 23 for identification, as of  
4 this date.]

5 BY MR. RANNELLS:

6 Q. Mr. Reidl, can you describe to  
7 me from your knowledge what Exhibit 23  
8 is?

9 A. The best way I can describe  
10 this would be that it is an abstract of a  
11 Certificate of Label Approval for a wine  
12 called Estancia Pinnacles.

13 Q. I draw your attention to the  
14 last page, Page 3 of Exhibit 23.

15 During your searches for the  
16 various terms that you searched,  
17 including Pinnacles and Pinnacles  
18 Ranches, did you come across, ever come  
19 across a window like this?

20 A. Yes.

21 Q. And were you -- isn't it true  
22 that this window indicates that the image  
23 of the actual label approval is not  
24 available on-line?

25 A. Yes, for COLAs that were issued

1 PAUL W. REIDL

2 prior to 1999, the images are not  
3 available on-line.

4 Q. Mr. Reidl, would you please  
5 define for me the -- give me the legal  
6 definition of what a trademark is?

7 A. Before I do that, can I clarify  
8 my last answer?

9 Q. Oh, sure.

10 A. I meant to say that this COLA  
11 is for 1997.

12 Q. Yes, I see that.

13 A. So I would not have expected to  
14 have found the label.

15 Q. Understood.

16 A. Now, your question is the legal  
17 definition of a trademark?

18 Q. Yes.

19 A. In a general sense, a trademark  
20 is a designation that has single source  
21 significance for goods and/or services.

22 Q. In preparing for and in writing  
23 your report that appears as Exhibits 4  
24 and 5, did you review the statutory  
25 definition of a trademark, I would say,

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2 immediately before, not over the last 18  
3 years or so?

4 A. I don't recall.

5 Q. Okay. What is your  
6 understanding of the elements that are  
7 required to show that a mark is  
8 geographically descriptive?

9 A. Well, in a very general sense,  
10 the term must refer primarily to a known  
11 geographic place. And that would be its  
12 primary significance.

13 Q. In preparing for writing the  
14 reports, did you do any legal research  
15 to, with regard to what the elements are  
16 for -- the elements of proof for showing  
17 that a term is geographically  
18 descriptive?

19 A. As I recall, I had just written  
20 a summary judgment motion on that point,  
21 so I did not specifically research it  
22 again for my reports.

23 Q. And what was that summary  
24 judgment report in regard to, what case?

25 A. Gosh, I am drawing a blank,

1                   PAUL W. REIDL

2       counsel.

3           Q.       That's okay. I will probably  
4       remind you of it later.

5                   Can you give me the legal  
6       definition of the phrase "use in  
7       commerce," as used in the Lanham Act?

8           A.       In a general sense, the  
9       designation has to be used on or in  
10      connection with the goods or the services  
11      in a bona fide way. Not a token way.

12          Q.       Do you have any special  
13      expertise in linguistics?

14          A.       No.

15          Q.       Do you have any special  
16      expertise in the meaning of words?

17          A.       No.

18          Q.       I refer you to Exhibit 4, if  
19      you can put that in front of you, sir.

20                   What is your understanding of  
21      what the word pinnacle means?

22          A.       Pinnacle, singular?

23          Q.       Yes.

24          A.       Well, I am no expert at  
25      linguistics, but the common meaning of



1 PAUL W. REIDL

2 the term pinnacle means the top of, the  
3 best.

4 Q. Are there any other definitions  
5 that you're aware of?

6 A. Not as I sit here.

7 Q. And what is your understanding  
8 of the definition of the word pinnacles,  
9 in the plural?

10 A. Pinnacles might refer to ice  
11 pinnacles or seracs, formations that have  
12 points or ridges, such as the Pinnacle  
13 National Monument has.

14 Q. Are you aware of any other  
15 definitions of the word pinnacles, in the  
16 plural?

17 A. Not as I sit here.

18 Q. In preparing for and drafting  
19 your reports, did you consult a  
20 dictionary with respect to the terms  
21 pinnacles or pinnacle?

22 A. I did an on-line search.

23 Q. And do you have a copy of that?

24 A. Do not. And I should say I did  
25 not print one.

1 PAUL W. REIDL

2 Q. You indicate in your reports --  
3 I am going back to the original ownership  
4 of the Pinnacles mark -- that it was  
5 developed -- you say in paragraph 13 of  
6 Exhibit 4, "The Pinnacle brand was  
7 developed by Paul Masson Winery in the  
8 early 1970s."

9 As part of your preparation for  
10 this proceeding, did you review anything  
11 that discuss the Pinnacles, in the  
12 plural, brand that was developed by Paul  
13 Masson?

14 A. There was very little  
15 information on it. The resources that I  
16 read that were actual resources, I have  
17 cited those in Exhibit A. And there  
18 might have been other things that I saw  
19 as I was researching this that supported  
20 that.

21 Q. As part of your preparation for  
22 the reports, did you review the file  
23 wrapper for Franciscan's Pinnacles  
24 trademark registration?

25 A. I believe that I looked at what

1 PAUL W. REIDL

2 was on-line. In fact, I am certain that  
3 I looked at what was available on-line.  
4 I looked at what was available in the, in  
5 the pleadings, and what had been produced  
6 on that subject.

7 Q. All right. And I am going to  
8 represent to you that the Pinnacles'  
9 registration owned by Franciscan, when it  
10 was originally registered by Paul Masson  
11 and up through and past the time it was  
12 assigned to Vintners, it was Pinnacle, in  
13 the singular, and not Pinnacles, in the  
14 plural.

15 Do you recall seeing a section  
16 7 amendment to the Pinnacles'  
17 registration in the file wrapper that you  
18 reviewed?

19 A. I do not.

20 Q. Okay. Based upon my  
21 representation, and -- based upon my  
22 representation that the original mark was  
23 Pinnacle and not Pinnacles, up through,  
24 throughout the entire time it was owned  
25 by Paul Masson and Vintners, does that

1 PAUL W. REIDL

2 change your opinion at all with regard to  
3 anything in your reports?

4 A. Not really.

5 Q. It doesn't change your view of  
6 what the term Pinnacles mean; is that  
7 correct?

8 A. Fundamentally, if what you say  
9 is correct, Paul Masson Winery is  
10 unlikely to have stumbled on the term  
11 Pinnacle as the name of a vineyard that  
12 was on the base of a Pinnacles National  
13 Monument without some association between  
14 Pinnacle and Pinnacles.

15 In any event, the label history  
16 clearly shows that Franciscan used the  
17 mark as Pinnacles when they did use it.  
18 And, in fact, the logical reason to do  
19 that was because of the national  
20 monument.

21 Q. I understand that. I would  
22 appreciate it if you could keep your  
23 responses as close as possible to the  
24 question. It will be much appreciated.

25 Exhibit 4, at paragraph 6, you

1 PAUL W. REIDL

2 state that "In the United States, there  
3 are two traditional types of brand names  
4 for wines: geographic terms and personal  
5 names."

6 What do you mean by the term  
7 "traditional" in that paragraph?

8 A. I am referring to names or  
9 designations that were commonly used for,  
10 during the early history of the wine  
11 history and, in fact, continue to be used  
12 today.

13 Q. Okay. Are there any other  
14 types of brand names for wines that were  
15 used since the early days of winemaking  
16 that are not geographic terms or personal  
17 names?

18 A. There might have been some  
19 brand names that did not fall under that  
20 category.

21 Q. And when you say "early days,"  
22 were you referring to in the United States  
23 there are two traditional types of brand  
24 names; during what period of time are you  
25 talking in this paragraph?

1 PAUL W. REIDL

2 A. The modern wine industry, if  
3 you will, did not begin until after  
4 December 1933 which marked the end of  
5 prohibition. So we would be talking post  
6 December 1933. Although there are some  
7 names, such as Louis M. Martini, which  
8 were in use as brand names, both before  
9 and after prohibition.

10 Q. Paragraph 8 of Exhibit 4, the  
11 last sentence says "Thus, they've  
12 developed their own labeling nomenclature  
13 that featured the names of the winemakers  
14 (e.g., Robert Mondavi, Gallo, Paul  
15 Masson, Carlo Rossi, Taylor) or a  
16 geographic term (e.g., California  
17 Cellars, Taylor New York Cellars, Corbett  
18 Canyon, Napa Ridge)."

19 Is it your belief or  
20 understanding that Robert Mondavi is a  
21 trademark for wine?

22 A. Yes.

23 Q. Is it your belief that Gallo is  
24 a trademark for wine?

25 A. It is now.

1 PAUL W. REIDL

2 Q. Is Paul Masson a trademark for  
3 wine?

4 A. Yes.

5 Q. Is Carlo Rossi a trademark for  
6 wine?

7 A. Yes.

8 Q. Is Taylor a trademark for wine?

9 A. It is now, yes.

10 Q. Is California Cellars a  
11 trademark for wine?

12 A. No.

13 Q. Is Taylor New York Cellars a  
14 trademark for wine?

15 A. Well, let me stop there. I  
16 might have been too quick.

17 You're asking me present tense.  
18 And I am not sure that Taylor New York  
19 Cellars is still around.

20 Q. Okay.

21 A. But there was a time when  
22 Taylor would have acquired  
23 distinctiveness through use. And Taylor  
24 New York Cellars may well have acquired  
25 distinctiveness through use, as well.

1 PAUL W. REIDL

2 Q. Is Corbett Canyon a trademark  
3 for wine?

4 A. Yes.

5 Q. Is Napa Ridge a trademark for  
6 wine?

7 A. Yes.

8 Q. Is it your position that in  
9 order, that if a party uses their full  
10 name, that they have to show secondary  
11 meaning before a mark -- before the term  
12 becomes a trademark?

13 A. I have no position on that, one  
14 way or another. That's a legal  
15 conclusion.

16 Q. Is it your opinion that a  
17 geographic term such as Corbett Canyon  
18 would have to show secondary meaning  
19 before becoming eligible to be registered  
20 as a trademark?

21 A. Forgive me, but I disagree with  
22 the premise of your question.

23 Q. What is it that you disagree  
24 with?

25 A. To my knowledge, Corbett Canyon



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2 is not an actual place. And therefore,  
3 since it is not an actual place, it would  
4 not require secondary meaning, because it  
5 has no geographic significance.

6 Q. So if it were a geographic  
7 place, would it require secondary meaning  
8 to be registered?

9 A. Again, you're asking me for a  
10 legal conclusion. I think that would  
11 depend on some of the characteristics of  
12 the actual place and how it was used.  
13 And I really don't have an opinion on  
14 that.

15 Q. If Corbett Canyon were a real  
16 place in a winery, or a vineyard, or a  
17 manufacturer of Corbett Canyon Wine were  
18 near to or adjacent to that particular  
19 geographical place, do you think that  
20 that would disqualify the mark initially  
21 from being eligible to be registered as a  
22 trademark?

23 A. I -- counsel, I would need more  
24 facts about the specific geographic place  
25 and how widely known it was.

1 PAUL W. REIDL

2 Q. Why would you have to know how  
3 widely known it was?

4 A. You're asking me to make a  
5 legal judgment based on an incomplete  
6 hypothetical.

7 Q. Yes, I am.

8 A. Well, thank you. And I am  
9 saying that I am not -- I can't make a  
10 legal judgment based on an incomplete  
11 hypothetical.

12 Q. Well, would it be your position  
13 that if a term -- if a geographical  
14 location could be found in more than one  
15 location, in other words, let's say there  
16 were eight Corbett Canyons in the United  
17 States, that that would affect your  
18 decision?

19 A. Again, you're asking me to make  
20 a judgment based on an incomplete  
21 hypothetical. Because it would depend on  
22 the characteristics of those eight places  
23 as to whether there would be the  
24 goods/place association.

25 Q. And what do you mean when you

1 PAUL W. REIDL

2 say "goods/place association"?

3 A. Well, that the geographic area  
4 was sufficiently known so that consumers  
5 would think of the geographic area as  
6 opposed to the single source identifier  
7 as a trademark.

8 Q. And how would you show -- in  
9 your experience, how would you show  
10 whether or not consumers would associate  
11 a particular geographical area or  
12 geographical indications or location as  
13 being associated with wines?

14 A. Well, I think you're mixing and  
15 blurring concepts, counsel. The  
16 association would not necessarily have to  
17 be with wines.

18 Q. What else could it be if wines  
19 were the goods in issue?

20 A. If we're talking about  
21 precluding registration, you could have a  
22 place where it would be misleading as to  
23 the geographic source of the goods. So  
24 the, the goods would not -- the  
25 geographic location would not necessarily

1 PAUL W. REIDL

2 have to be one that was known for wine.

3 Q. Okay. Then I am confused.

4 Could you repeat for me your  
5 definition of what you mean by  
6 goods/place association?

7 A. By goods/place association, I  
8 mean that the designation would tend to  
9 be associated with a place. And that  
10 place could be notorious for the goods,  
11 or it could be notorious for something  
12 else such that there is  
13 misdescriptiveness or it's of a  
14 misleading nature.

15 And that's the reason I was  
16 confused by your question.

17 Q. Okay. Understood. Thank you  
18 for clarifying.

19 [The documents created by  
20 Mr. Rannells, was hereby marked as  
21 Exhibit 24 for identification, as of  
22 this date.]

23 BY MR. RANNELLS:

24 Q. Mr. Reidl, the reporter just  
25 handed you Exhibit 24.

1 PAUL W. REIDL

2 This is a set of documents  
3 created by me. The first two pages are a  
4 summary that I personally created that I  
5 feel represents the documents underneath  
6 it.

7 The documents underneath are  
8 the names of -- are a TTAB or TESS  
9 Database Abstract of Trademark  
10 Registration followed by a search done  
11 through a Google database of places or  
12 locations, geographic locations that have  
13 the same or similar name as the name  
14 appearing on the registration itself.

15 Would you please take some time  
16 and look through this?

17 (Witness reviews documents.)

18 Q. Let's start with the first one,  
19 Atlas Peak Vineyards, which is the first  
20 registration appearing in the packet.

21 You will note underneath the  
22 Google search I conducted, there is an  
23 Atlas Peak Summit in California.

24 Based upon just these two  
25 documents, the registration abstract and

1 PAUL W. REIDL

2 the Google printout, would you consider  
3 the Atlas Peak Vineyards' trademark to be  
4 geographically descriptive?

5 A. It actually is an AVA.

6 Q. So you would -- then you're --  
7 your response is that yes, it's  
8 descriptive?

9 A. Yes.

10 Q. You note that this is a  
11 registration on the principal register,  
12 correct?

13 A. Yes.

14 Q. And you'll note that there is  
15 no 2F claim in there, correct?

16 A. Yes.

17 Q. Next, Baltimore Bend Vineyard,  
18 Registration 3739927, again, the  
19 registration abstract and the Google  
20 search I conducted, as well as a Website  
21 printout of a page from the Baltimore  
22 Bend Vineyards' Website.

23 Based upon the documents before  
24 you, do you believe that the mark  
25 Baltimore Bend Vineyards is

1 PAUL W. REIDL

2 descriptive -- geographically

3 descriptive, excuse me?

4 A. I have no opinion on that.

5 Q. No opinion, okay.

6 The next one is Black Canyon  
7 Vineyard. Again, it starts with the  
8 trademark TESS database abstract, and  
9 then there is part of my Google search is  
10 of the Black Canyon in Gunnison National  
11 Park.

12 Based upon the Black Canyon  
13 Gunnison Park is in Colorado, and that  
14 the owner of the registration for Black  
15 Canyon Vineyards is in Colorado, based  
16 upon the documents you had before you,  
17 would you consider Black Canyon Vineyard  
18 to be geographically descriptive?

19 A. No.

20 Q. The next mark is Cathedral  
21 Mountain Vineyard. The TESS database  
22 abstract followed by a Google search  
23 showing the various two pages indicating  
24 Cathedral Mountain, one is the  
25 geographical location of Cathedral

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2 Mountain Summit in Texas and the other is  
3 a picture from the Website, or a picture  
4 of Cathedral Mountain Vineyards.

5 Based upon the documents before  
6 you, would you consider Cathedral  
7 Mountain Vineyard to be geographically  
8 descriptive?

9 A. That's very difficult to say.  
10 Each of these, counsel, turns on their  
11 own specific facts.

12 Q. Certainly.

13 A. And as part of the registration  
14 process, if an applicant files an  
15 application, and the examining attorney  
16 does not raise an objection, for whatever  
17 reasons, the mark is past the  
18 publication, assuming that it's otherwise  
19 registrable, and it gets registered.

20 I am very reluctant to draw  
21 legal conclusions based on the results of  
22 a process where I have no idea what the  
23 overall factual picture is, and whether  
24 the application should have been filed in  
25 the first place, or what the examining



1                   PAUL W. REIDL  
2   attorney even considered when they  
3   reviewed the application.

4           Q.       That's fair enough. But it  
5   certainly does call for a legal  
6   conclusion, but I am asking your opinion  
7   based upon the documents before you and  
8   not your legal opinion as an attorney.

9           A.       Well, I understand that,  
10   counsel. But it's hard for me to render  
11   an opinion when I'm looking at an  
12   extremely incomplete set of facts that is  
13   resulting from a process that may result  
14   in a registration where a registration  
15   was not warranted, simply because the  
16   application was filed and examined and  
17   approved without consideration of all the  
18   facts. That's why you have oppositions.

19          Q.       Do you recall a time -- based  
20   upon your experience with Gallo, do you  
21   recall a time where examining attorneys  
22   would invariably, if a term looked as if  
23   it were geographic, turn to a gazetteer,  
24   and if a name appeared in the gazetteer,  
25   they would reject an application based

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2 solely upon that; did you ever have any  
3 experience with examiners in that regard?

4 A. I am aware that examining  
5 attorneys did that, yes, which would  
6 suggest that these would not have  
7 appeared in a gazetteer, which would also  
8 suggest that there is no geographic  
9 component to them that the examiner  
10 examined, considered.

11 Q. Just going back a second, you  
12 said, in your opinion, Black Canyon  
13 Vineyard was not geographically  
14 descriptive.

15 Do you need to revise your  
16 opinions?

17 A. Well, looking at the  
18 photographs and the topography, I doubt  
19 that there are any grapes growing  
20 anywhere near Black Canyon Vineyard or  
21 Black Canyon.

22 Q. Of Gunnison Park?

23 A. Of Gunnison Park.

24 Q. You said you hiked up Pinnacles  
25 Monument?

1 PAUL W. REIDL

2 A. Yes.

3 Q. Did you see any vineyards on  
4 the top of Pinnacles Monument?

5 A. Only when you looked down on  
6 the mountain of the other side.

7 Q. How many did you see there?

8 A. Get a good view of the  
9 Pinnacles Vineyards.

10 Q. Any others?

11 A. On a clear day, I suppose you  
12 could see far out into the valley and see  
13 the vineyards, was it the Stonewall  
14 Vineyard, some of the other vineyards on  
15 the other side of the highway.

16 Q. Just curious, could you see  
17 Chalone?

18 A. I don't recall looking in that  
19 direction.

20 Q. Okay. And do you think Chalone  
21 is a trademark, so far as in your  
22 opinion?

23 A. I have no opinion on that. I  
24 don't know. I don't even know what  
25 Chalone means.

1 PAUL W. REIDL

2 Q. Chalone Vineyards, have you  
3 heard --

4 A. I am familiar with the brand  
5 name. I am not familiar with the meaning  
6 of the word.

7 MR. SCHLOSS: Can you spell that  
8 for the record?

9 MR. RANNELLS: C-H-A-L-O-N-E.

10 Q. Is Chalone an AVA?

11 A. I don't believe so.

12 Q. I will just go through these  
13 quickly, and if you have the same  
14 response as you had for Cathedral  
15 Mountain, that it's very difficult, and I  
16 understand that, to make a, to give an  
17 opinion based on the documents before  
18 you, just so indicate, please.

19 Diamond Mountain Vineyard is  
20 next, followed by a Google search of the  
21 location of Diamond Mountain Summit in  
22 California, followed by Diamond Mountain,  
23 a copy from the Web page at  
24 [www.constantwine.com](http://www.constantwine.com), showing Diamond  
25 Mountain Vineyards.

1 PAUL W. REIDL

2 A. Diamond Mountain is an AVA.

3 Q. So you would consider that to  
4 be geographically descriptive?

5 A. Yes. It's an AVA. It's a  
6 geographic term.

7 Q. Next is Dry Creek Vineyard in  
8 California followed by a Google search  
9 showing a location known as Dry Creek in  
10 Sonoma County, California, followed by  
11 some Web pages by the Dry Creek Vineyard.

12 Do you think Dry Creek is  
13 geographically description?

14 A. No, because Dry Creek is the  
15 John Doe of water courses in California.  
16 It's ubiquitous. In fact, my property  
17 backs up onto the Dry Creek in my area.

18 Q. Wonderful.

19 A. And it's ubiquitous, because  
20 there are so many dry creeks due to the  
21 seasonality of the rainfall.

22 Q. Do you think the fact that  
23 there is a Dry Creek Vineyards near the  
24 Dry Creek identified in the Google search  
25 would lead consumers to possibly believe

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2 that it is a geographical indication or a  
3 geographical location?

4 A. I don't have enough information  
5 to really make that judgment.

6 Q. Okay. The next one is Duncan  
7 Peak Vineyards. The abstract from the  
8 TESS followed by the Google search,  
9 showing where Duncan Peak is in  
10 California, following by some information  
11 on Duncan Peak Vineyards.

12 Do you believe that Duncan Peak  
13 is geographically descriptive for wine?

14 A. I don't have an opinion on  
15 that, one way or the other. Don't have  
16 enough facts.

17 Q. I am sorry, I didn't mean to  
18 talk over you.

19 A. I said I don't have enough  
20 facts.

21 Q. Indian Peak Vineyards LLC is  
22 the next registration. It's followed by  
23 the Google search showing the location of  
24 Indian Peak Summit in California,  
25 followed by some information on Indian

1 PAUL W. REIDL

2 Peak Vineyards.

3 In your opinion, based upon  
4 these documents, is Indian Peak  
5 geographically descriptive of wine?

6 A. The same answer. I don't have  
7 enough facts to really evaluate that.

8 Q. Next is Jericho Canyon  
9 Vineyards, a registration abstract  
10 followed by a Google search showing the  
11 location of Jericho Canyon in California,  
12 followed by information on Jericho Canyon  
13 vineyard.

14 In your opinion, is Jericho  
15 Canyon geographically descriptive of  
16 wine?

17 A. The same answer. I just don't  
18 have enough facts to really evaluate.

19 Q. Fine. The next is Keswick  
20 Vineyards. Keswick Winery, in Virginia.  
21 Followed by some information on Keswick  
22 Vineyards, and followed by some  
23 information on Keswick, the town in  
24 Virginia.

25 Based on the documents before

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2 you, do you have an opinion as to whether  
3 or not Keswick Vineyards is  
4 geographically, a geographical  
5 designation for wine?

6 A. Do not.

7 Q. Okay. Next is Pacific Coast  
8 Vineyards, followed by information on  
9 Pacific Coast Vineyards.

10 In your opinion, would Pacific  
11 Coast Vineyards be a geographic  
12 designation for wine?

13 A. Probably not.

14 Q. And the reason for that?

15 A. It's too vague and general a  
16 term. It applies to a 3800 mile  
17 coastline.

18 Q. Do you think anyone that would  
19 have the right to use Pacific Coast  
20 Vineyards as the name of their vineyard?

21 A. Well, not if someone has a  
22 registered trademark for it.

23 Q. Okay. You mean a registered  
24 trademark that hasn't been attacked?

25 A. That hasn't been attacked,



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2 that's correct.

3 Q. The next one is Redwood  
4 Vineyards. Are you familiar with Redwood  
5 Vineyards?

6 A. Yes.

7 Q. And are you aware that there is  
8 a Redwood Park in California?

9 A. Yes. And there are a lot of  
10 redwood trees, as well.

11 Q. Based upon the documents before  
12 you, would you consider Redwood Vineyards  
13 to be geographically descriptive?

14 A. No.

15 Q. And the reason for that?

16 A. I think of a tree when I see  
17 Redwood.

18 Q. Okay.

19 A. And it's nowhere close --  
20 Nevada is just nowhere close to Redwood  
21 Forest or Redwood National Park.

22 Q. Do you believe that a consumer  
23 on the East Coast, when they see  
24 Pinnacles Vineyards, thinks of Pinnacle  
25 Monument?

1 PAUL W. REIDL

2 A. I don't know.

3 Q. Okay. The next in this Exhibit  
4 24 is Sequoia Grove.

5 I would assume you had the same  
6 response as with regard to Redwood?

7 A. Correct.

8 Q. Next is Soda Creek Vineyards,  
9 2004, Napa Valley Cabernet Sauvignon,  
10 TESS abstract. TESS, by the way is  
11 T-E-S-S in capital letters, followed by  
12 Google search showing Soda Creek,  
13 California. And followed, two pages  
14 after that, by Soda Creek Vineyards  
15 information.

16 Do you have any opinion as to  
17 whether or not Soda Creek Vineyards would  
18 be considered geographically -- is  
19 geographically descriptive, based upon  
20 the information that you have before you?

21 A. I do not, although my  
22 understanding is that I think Soda Creek  
23 is in a fairly rugged, almost wilderness,  
24 but I could be wrong.

25 Q. Next is Tahoe Ridge Vineyards &

1 PAUL W. REIDL

2 Winery.

3 Would it be fair to say that  
4 Tahoe is a fairly well-known geographical  
5 location?

6 A. Lake Tahoe would be.

7 Q. But Tahoe would not be?

8 A. I don't know.

9 Q. Okay. If a consumer -- in your  
10 opinion, if a consumer saw Tahoe Ridge  
11 Vineyards, do you think it would call to  
12 the consumer's mind Lake Tahoe?

13 A. Well, I am not so sure because  
14 Lake Tahoe does not have any ridge  
15 structures in it. It's a lake. The  
16 whole basin area there is referred to as  
17 the Tahoe Basin. But I notice that this  
18 is for a variety of goods, including  
19 wine.

20 Q. That's correct.

21 Staying with Tahoe Ridge for a  
22 second, if an examining attorney refused  
23 registration to Tahoe Ridge on the basis  
24 that he considered it to be  
25 geographically descriptive of wine, if

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2 the applicant refused to delete wine from  
3 the recitation of goods, would this  
4 registration be refused formally?

5 A. I have no opinion on that. I  
6 do not have enough facts to really  
7 evaluate that.

8 Q. Next is Victoria Creek  
9 Vineyards. That's the starting of the  
10 TESS abstract, going to Google search  
11 showing the location of Victoria Creek in  
12 Michigan, and some information on  
13 Victoria Creek Vineyards.

14 Based on what you have before  
15 you, do you have an opinion as to whether  
16 or not Victoria Creek Vineyards would be  
17 considered geographically descriptive for  
18 wine?

19 A. I do not have an opinion.

20 Q. And finally, Yosemite Road.  
21 Beginning with the TESS abstract followed  
22 by some information on Yosemite National  
23 Park and some information on the wine  
24 itself.

25 In your opinion, is Yosemite

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2 Road geographically descriptive?

3 A. I have no opinion on that.

4 Q. Would consumers, in your  
5 opinion, a consumer seeing the term  
6 Yosemite, what would they think of?

7 A. I have no opinion, although I  
8 will say that this exercise has  
9 confirmed, at least in my mind, that  
10 there are many geographic terms that are  
11 used as brand names for wine.

12 And again, as I testified both  
13 on direct and cross, whether those terms  
14 function as trademarks or are trademarks  
15 really depends on the facts of each  
16 particular situation. And that's why  
17 it's very difficult to evaluate this  
18 based on, you know, one or two facts out  
19 of many.

20 Q. I understand.

21 In creating your reports, did  
22 you do any consumer surveys to determine  
23 what the consumer impressions would be of  
24 the terms pinnacles or pinnacle, in the  
25 singular, or the term ranches?

1 PAUL W. REIDL

2 A. I was not asked to do a  
3 consumer survey.

4 Q. In your experience, what is the  
5 purpose of a consumer survey in a  
6 trademark proceeding, opposition  
7 proceeding? What can some of the  
8 purposes be, let's do it that way?

9 A. To the extent a survey is  
10 admissible and properly constructed, it  
11 can be probative of any number of issues  
12 in a section to the proceeding from  
13 whether the term is generic to whether  
14 there is a likelihood of confusion.

15 Q. Could a survey also be used to  
16 determine whether consumers, whether  
17 consumers have a goods/place association  
18 with regard to a geographically  
19 descriptive issue?

20 A. A properly constructed survey  
21 might be admissible and probative on  
22 that.

23 Q. You indicated -- you spoke a  
24 lot about marketing purposes behind  
25 names, brand names or other indicia on a

1                   PAUL W. REIDL

2       label.   And you also discussed the  
3       Pinnacles capsule.

4                   What would be -- what reason  
5       would a manufacturer have for putting --  
6       I think you may have answered this  
7       already -- but for putting one of those  
8       indicia on a capsule?

9           A.       You'll have to repeat the  
10      question for me.

11      Q.       How about if I rephrase it?

12      A.       Thank you.

13      Q.       If I, as a manufacturer, wine  
14      manufacturer or a vodka manufacturer, for  
15      that matter, put a brand name, or a logo  
16      or some other indicia that appears on my  
17      label on a capsule, what would be the  
18      purpose of doing that?

19      A.       To reinforce the branding on  
20      the label, or for decorative ornamental  
21      aesthetic purposes.

22                   [The printouts were hereby  
23      marked as Exhibit 25 for  
24      identification, as of this date.]

25      BY MR. RANNELLS:

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2 Q. Mr. Reidl, have you ever seen  
3 any of the two products that comprise  
4 either of the pages of Exhibit 25?

5 A. Yes.

6 Q. On the first page, I know with  
7 regard to the Estancia labels, you went  
8 through the various indicia that appear  
9 on the label itself and their meaning.

10 If you could, describe for me  
11 what you believe, in your opinion, would  
12 be the purpose of having the mountain  
13 peak that appears on the inside of the  
14 backside of the bottle that we see with  
15 the word France superimposed, but on the  
16 outside of the bottle?

17 A. It's a mountain pinnacle which  
18 serves to reinforce the primary branding  
19 which is Pinnacle.

20 Q. And on the top cap, what do you  
21 -- could you just describe for the record  
22 what you see on the top cap?

23 A. Well, there is a representation  
24 of the mountain pinnacle that appears  
25 below, which we just discussed. It is



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2 more stylized, but it's the same. And it  
3 reinforces that imagery. There is a blue  
4 line that runs around the circumference,  
5 lower circumference of the cap, it is  
6 decorative.

7 And there is the word Imported,  
8 which reinforces the brand message that  
9 this is an imported product. This isn't  
10 a domestic product. This comes from  
11 somewhere else.

12 Q. Turning your attention to the  
13 second page, to the bottle of Pinnacles  
14 Vodka displayed there in at the farthest  
15 right side, would you please describe --

16 MR. SCHLOSS: Sorry, did you  
17 say --

18 MR. RANNELLS: The farthest  
19 right-hand side.

20 MR. SCHLOSS: It depicts, just  
21 for the record, Pinnacle Vodka.

22 BY MR. RANNELLS:

23 Q. Would you describe -- well,  
24 where does the pinnacle and fanciful  
25 depiction of mountain appear on that

1 PAUL W. REIDL

2 bottle?

3 A. It appears on a -- the spirits  
4 -- a screw cap equivalent of the capsule.

5 Q. I am talking about the furthest  
6 right one?

7 A. Yes.

8 Q. Oh, okay.

9 A. This is a, this might be what's  
10 called a Stelvin closure. But there is a  
11 screw cap. And the bottom extends onto  
12 the bottle, and that is frequently used  
13 to reinforce brand image, as it is used  
14 here, with the representation of the  
15 pinnacle and then a repeat of the brand  
16 name Pinnacle, which, of course, is on  
17 the main label.

18 Q. In defining what the word  
19 pinnacle means and what is the commercial  
20 impression given by the use of the  
21 mountain design, is it possible that  
22 consumers would look at the word Pinnacle  
23 and make some association with a  
24 geographical -- some geographical  
25 location?

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2 A. No, because the pinnacle design  
3 is a nonspecific general mountain design  
4 that was probably created by some artist  
5 somewhere. So there would not be a  
6 specific pinnacle mountain to be  
7 associated with.

8 Q. Are you sure?

9 A. The packaging certainly doesn't  
10 leave me to believe that there is a  
11 pinnacle mountain in France that this is  
12 to be associated with.

13 Q. Okay. In paragraph 24 of  
14 Exhibit 4, you state that "The placing of  
15 branding on capsules is uncommon."

16 What do you mean by that?

17 A. When speaking of wine capsules  
18 -- there is a cost to have the capsules  
19 printed.

20 As I testified earlier, you  
21 can't, from a production standpoint,  
22 guarantee the aesthetic lineup with the  
23 main face label.

24 So when you look at the wall of  
25 wine, not every capsule, in fact, most

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2 capsules don't have printing on them.  
3 When they do, it mirrors the brand image  
4 that is on the main face label.

5 Q. Is it possible that the fact  
6 that when they put the capsule on and it  
7 doesn't line up exactly with the label  
8 underneath it, that that could be a  
9 benefit because that means that no matter  
10 where the consumer -- no matter how the  
11 bottle is shown on their -- on a shelf,  
12 including, even if the label were on the  
13 back, that a consumer would have some way  
14 of determining what that product was?

15 A. I disagree with that.

16 Q. And what do you base your  
17 disagreement on?

18 A. You can't see the branding.

19 Q. Maybe you misunderstood my  
20 question. I wasn't talking specifically  
21 of the Pinnacles bottle that's before  
22 you. I was talking in general.

23 That anybody who does use that,  
24 that does brand their capsules, it might  
25 be a benefit if it was a repeat, that

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2 regardless of how you characterize  
3 whether or not you can see this  
4 Pinnacles, but for others, that it could  
5 be a benefit because it could be seen no  
6 matter how the bottle was positioned?

7 A. In 20 years in this business, I  
8 have never heard of anyone say that. And  
9 I just think that statement is just  
10 wrong, because you put it there primarily  
11 for aesthetic. You get some brand  
12 reinforcement out of it.

13 But consumers -- when those  
14 bottles are on the shelves, the retailers  
15 and the distributor says people are going  
16 to make sure that the consumer sees it  
17 flat on, the label, it's not going to be  
18 on the shelf sideways, because they are  
19 not doing their job otherwise.

20 So from a packaging standpoint,  
21 you are primarily interested in that  
22 front label. And I've never heard  
23 anybody articulate what you articulated.  
24 If they don't see the front label, maybe  
25 they will see the mouse type on the

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2 capsule and know that that's ours,  
3 because you can't see it, standing in the  
4 aisle.

5 Q. Isn't it true that wine is  
6 often -- not often, but that wine is  
7 displayed on its side either in some  
8 liquor stores or wine stores and/or is  
9 both displayed as you describe and also  
10 displayed on its side?

11 A. By on its side, do you mean  
12 laid out horizontally?

13 Q. That's correct. That's what I  
14 meant.

15 A. There are some higher-end  
16 stores that will lay wine out  
17 horizontally.

18 Again, I don't think that  
19 having the word, a word printed around  
20 the bottom, which would be actually  
21 upside down if the bottle were laid out  
22 horizontally, would serve any kind of  
23 branding purpose. And I never heard it  
24 articulated that let's design our package  
25 so people can read it when it's

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2 horizontally. That is just not the  
3 convention.

4 Q. If I was in a restaurant, and  
5 the sommelier opened my bottle for me and  
6 put it in an ice bucket, what would I  
7 see?

8 A. I believe a towel, if the  
9 sommelier is doing his job right. He has  
10 a ice bucket next to the table.

11 Q. Yes.

12 A. You will see a towel.

13 Q. You would see a towel. You  
14 wouldn't see the top of the bottle?

15 A. You might see a portion of the  
16 top of the bottle.

17 But counsel, your purchasing  
18 decision is already made, because you now  
19 have an open bottle of wine chilling next  
20 to your table.

21 Q. Are you saying that confusion  
22 can only occur at the place of purchase?

23 MR. SCHLOSS: Objection.

24 Mischaracterizing the witness's  
25 testimony.

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2 MR. RANNELLS: I didn't  
3 characterize it. I asked.

4 A. There, of course, are decisions  
5 that would hold that post purchase  
6 confusion is actionable. But that's not  
7 what we're talking about here.

8 We're talking about why  
9 somebody would put branding on a capsule.  
10 And the point that I was making is when  
11 you order wine in a restaurant, you're  
12 ordering it off a wine list. And you're  
13 not ordering it based on some language  
14 that might be on the capsule of the  
15 bottle of wine.

16 So by the time the sommelier  
17 gets the wine, opens it for you. Goes  
18 through the tasting ritual, and puts it  
19 in the ice bucket. You already know what  
20 you're drinking and know what you bought.  
21 And you've actually accepted it.

22 Q. You have said that this would  
23 reinforce the branding, correct?

24 A. It would reinforce the branding  
25 for the purposes of consumer purchase.



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2 And in the restaurant situation, you  
3 would have already purchased the wine.

4 Q. If I bring the wine home and I  
5 take it out and put it on my table, or I  
6 have it in my wine rack, isn't the  
7 branding on the capsule continuously  
8 reinforcing the branding to me; isn't  
9 that the purpose of it or one of the  
10 purposes?

11 A. I don't believe that's -- in  
12 fact, I am very certain that's not the  
13 reason why people would do that. It's  
14 too far down the chain of concern.

15 Q. So if I bought this bottle of  
16 wine home and put it on my table, and I  
17 looked at it five times during the day,  
18 the branding on the capsule would have no  
19 effect on reinforcing the branding on the  
20 bottle to me?

21 A. Very little, because the  
22 dominant branding on the packaging is  
23 Estancia. You purchased Estancia. You  
24 have Estancia sitting on your table.  
25 That's what you want to drink. That's

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2 the wine that you're going to consume.  
3 You know what's Estancia. And having  
4 Pinnacles on the capsule, which just  
5 comes out of no where, doesn't really  
6 reinforce anything.

7 Q. Have you ever purchased a  
8 Pinnacles Pinot Grigio -- excuse me, have  
9 you ever purchased an Estancia Pinot  
10 Grigio?

11 A. No.

12 Q. Have you ever seen one?

13 A. I think I saw one at the, at  
14 the Save Mart, yes.

15 Q. Are you aware of the price  
16 point or tier at which it sold?

17 A. The Estancia wines tend to be  
18 in the 9.99 to the 15.99 price range.

19 Q. All of them?

20 A. I believe they have some in a  
21 more premium category, but I did not  
22 research the Estancia pricing.

23 Q. Did you research the different  
24 tiers of Estancia to determine how  
25 Estancia is used on the bottles?

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2 A. I researched the Certificates  
3 of Label Approval. And I reviewed the  
4 Website. I was not interested in  
5 Estancia, per se. I was interested in  
6 the use of the term Pinnacles, the term  
7 Pinnacles Ranches, and the term Pinnacles  
8 Vineyard.

9 Q. And what, in your opinion, if  
10 you can -- if you have an opinion, would  
11 be the purpose of -- let me rephrase  
12 that.

13 By putting Pinnacles Ranches on  
14 an Estancia bottle, or by putting Keyes  
15 Canyon Ranches on an Estancia bottle -- I  
16 am sorry, let me rephrase again.

17 By putting Pinnacles Ranches on  
18 an Estancia bottle, or Keyes Canyon on an  
19 Estancia bottle, or Stonewall Vineyards  
20 on an Estancia bottle, or no such  
21 designation on an Estancia bottle, do you  
22 believe that by doing that, you create  
23 some distinction amongst your wines for  
24 consumers?

25 A. As I understand your question,

1 PAUL W. REIDL

2 you're asking whether the addition of  
3 secondary brands or the absence of  
4 secondary brands can be used to  
5 distinguish product under the primary  
6 brand?

7 Q. Yes.

8 A. And my answer is it depends.  
9 Certainly, the absence of a vineyard  
10 designation would send a cue to consumers  
11 that this wine does not originate in a  
12 specific vineyard.

13 Now, you can have vineyard  
14 designated wines -- or nonvineyard  
15 designated wines that are extremely  
16 expensive and extremely inexpensive. But  
17 the absence of a vineyard designation  
18 would communicate that it was not from  
19 one.

20 The addition of vineyard  
21 designations does tend to communicate  
22 that the wine originates from a specific  
23 vineyard, which has a positive quality  
24 cue.

25 However, I think that the

1 PAUL W. REIDL

2 varietal name can communicate just as  
3 much about the wine as the vineyard  
4 designation, to the extent that the  
5 varietal is only grown in a specific  
6 vineyard.

7 So your question was what  
8 distinguishes, if you have a chard, a  
9 pino and a cabernet, and each of them  
10 comes from three different vineyards, the  
11 consumer now has two ways on each label  
12 to distinguish the wines: vineyard  
13 designation and varietal.

14 [The photographs were hereby  
15 marked as Exhibit 26 for  
16 identification, as of this date.]

17 MR. SCHLOSS: Jack, before you  
18 start your questioning, I am not sure  
19 exactly how you're using these  
20 photographs, but I think -- I will  
21 wait until I hear your question, but  
22 the likelihood is we're going to have  
23 to put in a running objection as to  
24 foundation. I mean obviously, we  
25 don't know, we don't know where these

1 PAUL W. REIDL

2 came from and such.

3 MR. RANNELLS: Right. And I  
4 will lay a foundation. I am going to  
5 call the photographer who took the  
6 photographs the day before yesterday,  
7 and I will identify the store it was  
8 taken. And he's also the person who  
9 made the prints, so there will be a  
10 good chain.

11 MR. SCHLOSS: Okay. We'll see.

12 MR. RANNELLS: We will see.

13 Before we begin, I understand  
14 that Mr. Schloss, I am happy to grant  
15 him a running objection with regard to  
16 laying a foundation for the Exhibit  
17 that has just been handed to  
18 Mr. Reidl.

19 Q. Mr. Reidl, have you had a  
20 chance to look through these?

21 A. Yes.

22 Q. And what do they represent?

23 A. They appear to be photographs  
24 of, for the most part, wine bottles.

25 Q. Okay. And do they also show a

1 PAUL W. REIDL

2 photograph of the capsule for each of the  
3 wine bottles depicted in the Exhibit?

4 A. Yes.

5 Q. Having been given this, does it  
6 change your understanding that the use of  
7 branding on wine capsules is uncommon?

8 A. No.

9 Q. The first one you have before  
10 you, could you identify the wine? Could  
11 you identify the brand, please?

12 A. I am completely unfamiliar with  
13 this wine. I never heard of it.

14 Q. But can you tell me, based upon  
15 the architecture of the label, what the  
16 brand is?

17 A. It looks like it's Principessa  
18 Gavia.

19 Q. Okay. And looking at the  
20 capsule on the top, what do you see?

21 A. Well, I see, I see that the  
22 capsule on the left is not the same as  
23 the capsule on the right.

24 Q. It's not the same one you have  
25 there. I am sorry. Go ahead.

1 PAUL W. REIDL

2 A. They are two different  
3 capsules.

4 Q. The capsule that you see --  
5 well, I will state for the record that  
6 the capsule that you see to the right of  
7 the bottle is a closeup of the capsule  
8 that you see on the wine next to it, as I  
9 was standing next to the photographer  
10 when he made the photograph.

11 A. Counsel, it's hard for me to  
12 accept that since one is turquoise and  
13 the other is navy.

14 MR. NODA: Can you point out  
15 which picture?

16 MR. RANNELLS: Yes.

17 MR. SCHLOSS: Our pictures don't  
18 seem to be in sequence.

19 MR. NODA: It is not  
20 corresponding.

21 MR. RANNELLS: I will represent  
22 that the reason they are a different  
23 color is because of the closeup versus  
24 the further-away version of the  
25 photograph.



1 PAUL W. REIDL

2 Q. Let's do a hypothetical then,  
3 since you're not willing to accept my  
4 representation.

5 Assuming that the capsule is  
6 the capsule that appears on the bottle --

7 MR. SCHLOSS: I am sorry,  
8 counsel, we can't see which image  
9 you're referring to, because our  
10 photographic prints are not in any  
11 sequence that tracks what you've got  
12 there.

13 BY MR. RANNELLS:

14 Q. What is the mark that you see  
15 on the capsule to the right of the  
16 bottle?

17 A. Principessa, which corresponds  
18 to the brand name on the label.

19 Q. And what is the brand name on  
20 the label?

21 A. It's Prince of -- it's Princess  
22 Garcia, would be the translation.

23 Q. Okay.

24 A. And you have Principessa.

25 Q. Do you see the word Garcia or

1 PAUL W. REIDL

2 --

3 A. Garcia -- Gavia, something like  
4 that.

5 Q. Gavia, okay.

6 Do you see Gavia on the  
7 capsule?

8 A. No.

9 Q. All right. So is it -- you  
10 said that it had the brand on the  
11 capsule.

12 Isn't it true that it has a  
13 truncated version of the brand on the  
14 capsule?

15 A. That's correct.

16 MR. SCHLOSS: I am going to  
17 object that none of the images you  
18 have here depict a 360 degree angle so  
19 we can see the whole capsule.

20 MR. RANNELLS: Okay.

21 Q. I am not going to go through  
22 them all, so don't worry.

23 A. If I may note that the capsule  
24 is not lined up flush with the face --

25 Q. That's true.

1 PAUL W. REIDL

2 A. -- of the label.

3 Q. The next one, are you familiar  
4 with that wine?

5 MR. SCHLOSS: Sorry, which is  
6 this?

7 A. I have heard the brand name  
8 Hogue, but I am not familiar with this  
9 particular wine.

10 MR. SCHLOSS: Can we have a  
11 moment to look for it?

12 MR. RANNELLS: Sure. It's about  
13 maybe 15 down.

14 Q. What do you see on the capsule?

15 A. I see the corporate name of the  
16 producer.

17 Q. All right. So is putting the  
18 corporate name of the producer on a  
19 capsule another way of branding?

20 A. I wouldn't call that a brand.  
21 It's the corporate name of the producer.

22 Q. What would be the purpose of  
23 putting the corporate name of the  
24 producer on the capsule?

25 A. I have never seen it done.

1 PAUL W. REIDL

2 Q. Okay. The next one, are you  
3 familiar with Zaco, Z-A-C-O, Wines?

4 A. I have never seen this one.

5 Q. When you look at the capsule,  
6 do you see the full name Zaco appearing  
7 on the capsule?

8 A. No, but I see a, I see the logo  
9 which is the incorporation of the Z --  
10 the white Z and the red tilde of Viña.  
11 It's pretty clever, actually.

12 Q. And does that reinforce the  
13 brand?

14 A. In this case, yes. It's very  
15 clever.

16 Q. Next.

17 MR. SCHLOSS: Sorry, which?

18 MR. RANNELLS: The next one  
19 would be Marqués de Cáceres. It's  
20 red.

21 Q. What is the brand name on the  
22 wine?

23 A. I have never seen this wine  
24 before. It is Portuguese. It's a -- I  
25 can't even tell what country the Rioja

1 PAUL W. REIDL

2 originates in, but it's Marqués de  
3 Cáceres.

4 Q. Okay. And on the capsule  
5 skirt, what do you see?

6 A. You see three things. You see  
7 the name, the brand name, you see the  
8 logo, and you see the indication of  
9 quality, which is a defined term under  
10 the European wine regulations Vendimia  
11 Seleccionada.

12 Q. Okay. The next one, are you  
13 familiar with? Identify the brand name.

14 A. The brand name is Aveleda. I  
15 believe that Fonte is a wine style, a  
16 Portuguese wine style, but I am not  
17 certain. I have never seen this package  
18 before.

19 MR. SCHLOSS: Can I just ask  
20 you, are these wines all sold in the  
21 United States?

22 MR. RANNELLS: These wines are  
23 all available for sale in the United  
24 States. There photographs were all  
25 taken at a store in Raritan, New

1 PAUL W. REIDL

2 Jersey the day before yesterday. And  
3 I personally -- I personally was the  
4 person who handed the bottles, each of  
5 the bottles to the photographer.

6 MR. SCHLOSS: So these were all  
7 available for sale in that location?

8 MR. RANNELLS: In that store,  
9 yes.

10 MR. SCHLOSS: Okay.

11 BY MR. RANNELLS:

12 Q. Would you identify the, what  
13 appears on the capsule sleeve?

14 A. There is the brand name  
15 Aveleda. And what appears to be a logo.

16 Q. Okay. Is a logo trademarkable?

17 A. If it functions as an indicator  
18 of source.

19 Q. We had discussed before the  
20 fanciful E on the Estancia label.

21 There is one that appears on  
22 the bottle before you at the top and on  
23 the label. Do you believe that that E is  
24 capable of being a trademark?

25 A. I don't have an opinion on

1 PAUL W. REIDL

2 that.

3 Q. Okay. And the -- in the  
4 Estancia -- Exhibit 20, the Estancia  
5 Chardonnay bottle, there is a picture  
6 which you haven't discussed yet, with  
7 someone with a hoe, and it looks like  
8 perhaps a vine next to it.

9 Do you believe that that is  
10 capable of trademark significance?

11 A. I don't have that opinion.

12 Q. Okay.

13 MR. RANNELLS: I am not going to  
14 go through these. However, I am  
15 submitting them as evidence that the  
16 use of branding on wine capsules is  
17 fairly common.

18 MR. SCHLOSS: I am going to  
19 maintain my running objection.

20 MR. RANNELLS: Certainly.

21 [The TESS printouts of  
22 applications and/or registrations for  
23 wines, was hereby marked as Exhibit 27  
24 for identification, as of this date.]

25 BY MR. RANNELLS:

1 PAUL W. REIDL

2 Q. Mr. Reidl, look over each of  
3 the pages of Exhibit 27. And do you  
4 recognize any of these?

5 (Witness reviews Exhibit.)

6 Q. Can you describe what they are?

7 A. These appear to be TESS  
8 printouts of records of applications  
9 and/or registrations for wines.

10 Q. Were you responsible for filing  
11 any of these applications?

12 A. Some of them, yes.

13 Q. Are all of the applications in  
14 the name of Gallo Winery?

15 A. I am not sure if each of these  
16 was applied for on behalf of Gallo  
17 Winery.

18 Q. Could you point out which ones  
19 you're not sure of?

20 A. Redwood Grove.

21 Q. Are you familiar with the  
22 Redwood Grove mark?

23 A. Yes.

24 Q. Did you have anything to do  
25 with the assignment from European



1 PAUL W. REIDL

2 Beverage Company to E&J Gallo Company of  
3 the registration for Redwood Grove?

4 A. I don't recall.

5 Q. Now, looking at the first one,  
6 Liberty Creek, in your opinion, could a  
7 consumer consider Liberty Creek to have  
8 geographical significance?

9 A. Counsel, I cannot answer that  
10 question on the grounds of  
11 attorney/client privilege.

12 Q. I haven't asked you to divulge  
13 anything other than your opinion as to  
14 what a consumer might consider.

15 A. As counsel for Gallo Winery at  
16 the time that this brand was developed  
17 and registered, I don't see how I can  
18 answer that question without implicating  
19 the privilege.

20 Q. So you're not going to answer,  
21 correct?

22 A. That's correct.

23 Q. Would that be the same for the  
24 next one, Sola Vista Vineyards?

25 A. Correct.

1 PAUL W. REIDL

2 Q. And for the next, Wyalla Cove?

3 A. Correct.

4 Q. And Pont d'Avignon?

5 A. Correct.

6 Q. And Whistle Creek?

7 A. Correct.

8 Q. And Rhine Peak?

9 A. Yes.

10 Q. I will save you the trouble:

11 All of these?

12 A. All of them.

13 Q. Thank you.

14 A. And if I may also add, I am  
15 privy to confidential information about  
16 those brands, as well, that I am legally  
17 obligated not to disclose by  
18 agreement.

19 [The documents regarding the  
20 trademark Altamont, was hereby marked  
21 as Exhibit 28 for identification, as  
22 of this date.]

23 BY MR. RANNELLS:

24 Q. Can you identify what this  
25 Exhibit consists of?

1 PAUL W. REIDL

2 A. There is a TESS extract for the  
3 trademark Altamont and Office Action from  
4 an examining attorney rejecting or  
5 refusing registration based on Article 22  
6 of TRIPS, and a response that was filed  
7 on behalf of the applicant. There is a  
8 power of attorney to the lawyer that  
9 filed the response, and a transmittal  
10 letter of mailing to the USPTO.

11 Q. Did you approve the response?

12 A. Yes.

13 Q. What section of the Lanham Act  
14 refers to TRIPS?

15 A. Section 2. There were some  
16 amendments made to Section 2(a).

17 Q. I will confirm that it is  
18 Section 2(a).

19 A. To reflect TRIPS?

20 Q. Right.

21 I note that the refusal here,  
22 if you look at Page 3, is under Section  
23 2(e); that it was initially refused  
24 registration on the basis that "the mark  
25 is geographically descriptive and/or on

1 PAUL W. REIDL

2 the basis that it's deceptively  
3 geographically misdescriptive," and on  
4 the basis of TRIPS.

5 And the response to Office  
6 Action, Gallo contended -- what was  
7 Gallo's defense to the refusal, as  
8 reflected to the response to Office  
9 Action?

10 A. Counsel, I can't discuss  
11 Gallo's legal position with respect to  
12 this Office Action or this mark without  
13 disclosing attorney/client privileged  
14 information and impinging on  
15 confidentiality.

16 I think Mr. Weinberg's response  
17 speaks for itself.

18 Q. Okay. And did you approve his  
19 response?

20 A. I did.

21 Q. And do you believe it's an  
22 accurate representation of the law?

23 A. Of the law and the facts at the  
24 time.

25 Q. Isn't it true that one of the

1 PAUL W. REIDL

2 positions taken in the response to Office  
3 Action is that the primary significance  
4 of the mark was not geographic because  
5 there is more than one location of an  
6 Altamont in the United States?

7 A. I don't recall that.

8 Q. Could you look at the response?

9 A. Again, you're asking me --

10 Q. This is a public record.

11 A. Well, counsel, the public  
12 record speaks for itself. No matter what  
13 I say, I would be impinging on my  
14 discussions -- the attorney/client  
15 privilege, my discussions with Mr.  
16 Weinberg, and my own advice to the client  
17 on the case.

18 Q. Okay. In your opinion, in  
19 determining -- apart from Altamont, in  
20 your opinion, in determining geographical  
21 descriptiveness, if a, if a geographical  
22 location appears in more than one place,  
23 is that one basis upon which that you can  
24 contend that the mark is not  
25 geographically descriptive as with regard

1 PAUL W. REIDL

2 to those goods?

3 A. Well, you're asking me for a  
4 legal conclusion. As I testified  
5 previously, it really depends on the  
6 facts and the particular term at issue.

7 Q. It depends on consumer  
8 impression, also, correct?

9 A. It depends on what is  
10 considered to be the likely consumer  
11 impression, among other things.

12 [The Google search results,  
13 was hereby marked as Exhibit 29 for  
14 identification, as of this date.]

15 BY MR. RANNELLS:

16 Q. Mr. Reidl, please take your  
17 time and look over the Exhibit.

18 (Witness reviews document.)

19 A. Okay.

20 Q. I will represent to you that  
21 these are Google searches that I  
22 personally made on the Internet.

23 And the first two pages  
24 indicate my summary of what's beneath  
25 them of pinnacles formations found in

1 PAUL W. REIDL

2 other places in the United States or the  
3 world.

4 Based upon the number of  
5 different pinnacles or locations of  
6 pinnacles throughout the world, is it  
7 your opinion that the consumer saying the  
8 word Pinnacles Ranches or the word --  
9 let's start with the word Pinnacles  
10 Ranches would only think of Pinnacles  
11 Monument?

12 A. Counsel, I never heard of any  
13 of these. I don't know what consumers  
14 would think of any of these.

15 Q. Very well.

16 [The excerpt from TESS on the  
17 trademark Redwood Creek and  
18 Declaration submitted in connection  
19 with the response to an Office Action  
20 in 2002, was hereby marked as Exhibit  
21 30 for identification, as of this  
22 date.]

23 BY MR. RANNELLS:

24 Q. Can you identify what the  
25 documents are that comprise Exhibit 30?

1 PAUL W. REIDL

2 A. Yes. There is an excerpt from  
3 TESS on the trademark Redwood Creek and  
4 Declaration that I submitted in  
5 connection with the response to an Office  
6 Action in 2002.

7 Q. Just so we don't have to go  
8 over this again, if I ask you questions,  
9 are you going to refuse to answer based  
10 on attorney/client privilege?

11 A. I would say that the  
12 Declaration speaks for itself. And I  
13 would assert the privilege on any  
14 questions concerning the basis for the  
15 Declaration, why we filed the  
16 Declaration, what those arguments were.

17 Q. Any and all arguments within  
18 the Declaration, are they supportable by  
19 law?

20 A. Counsel, I filed the  
21 Declaration. And the declaration was  
22 made --

23 Q. Under penalty of perjury?

24 A. -- under penalty of perjury.

25 Q. As to the statements made?



1 PAUL W. REIDL

2 A. Yes, it was made under penalty  
3 of perjury. And the facts contained  
4 therein are true. They were used to  
5 support the legal argument that was made  
6 in the brief that accompanied it.

7 Q. Very good. Thank you.

8 [The correspondence between Mr.  
9 Reidl and the Commissioner for  
10 Trademarks, was hereby marked as  
11 Exhibit 31 for identification, as of  
12 this date.]

13 BY MR. RANNELLS:

14 Q. Mr. Reidl, can you identify  
15 what's been marked as Exhibit 31?

16 A. Yes.

17 Q. Would you describe it, please?

18 A. The first page is a transmittal  
19 letter from me to the Commissioner for  
20 Trademarks. This was in the days before  
21 you do electronic filing of the TTAB. It  
22 covered off a Motion of Summary Judgment  
23 and Supporting Memorandum in Opposition  
24 Number 91175854, which was based on  
25 unanswered requests for admission.

1 PAUL W. REIDL

2 Q. Is this the summary judgment  
3 motion you referred to earlier in your  
4 testimony?

5 A. I don't, no.

6 Excuse me, my answer was I  
7 don't and then comma no, not I don't  
8 know.

9 Q. I understand that the basis for  
10 this was failure to respond to requests  
11 for admissions.

12 You cite case law under Page 3  
13 of the summary judgment response, the  
14 section entitled The Goods Are Similar.

15 The case law cited in there, do  
16 you believe that that is good case law  
17 with regard to similarity of goods in the  
18 alcoholic beverage industry?

19 MR. SCHLOSS: Objection.  
20 Relevance.

21 MR. RANNELLS: Well, I believe  
22 that Mr. Reidl is here on both cases.

23 MR. SCHLOSS: Yes, but he hasn't  
24 testified about the standards for  
25 likelihood of confusion.

1 PAUL W. REIDL

2 MR. RANNELLS: Well, fine.

3 Would you stipulate that he's not  
4 being offered as an expert on the  
5 issue of likelihood of confusion?

6 MR. SCHLOSS: No.

7 MR. RANNELLS: Oh, okay. Then  
8 please respond.

9 A. May I have the question,  
10 please?

11 (The reporter read back as  
12 follows:

13 "QUESTION: The case law cited  
14 in there, do you believe that that is  
15 good case law with regard to  
16 similarity of goods in the alcoholic  
17 beverage industry?")

18 A. The cases state, counsel, that  
19 each of, each case needs to be considered  
20 on its own merits and on its own proof.  
21 And to the extent that the person in the  
22 position of the Plaintiff in those cases  
23 was able to convince the Federal Circuit  
24 or the TTAB that there was a similarity  
25 of goods, then those cases represent good

1 PAUL W. REIDL

2 case law.

3 In this case, there was an  
4 admission, so.

5 Q. This case did go beyond -- this  
6 brief did go beyond just the request for  
7 admission issue, and did cite case law to  
8 support the substantive issues, correct?

9 A. Would you repeat the question?

10 (The reporter read back as  
11 follows:

12 "QUESTION: This brief did go  
13 beyond just the request for admission  
14 issue, and did cite case law to  
15 support the substantive issues,  
16 correct?")

17 A. The cases -- no, that's not  
18 correct.

19 The cases say that you need to  
20 prove it up. An admission that is  
21 unanswered is proving it up. And  
22 therefore, having proved it up, you  
23 satisfied the element of the case, of the  
24 case law.

25 Q. So in each of these cases, it

1 PAUL W. REIDL

2 is your understanding that the whole  
3 thing was you have to proof your case,  
4 not that necessarily that any two types  
5 of alcoholic beverages may be considered  
6 related or similar?

7 A. I have not read these cases  
8 recently. But I do know, based on my  
9 experience, that the Board and the Courts  
10 have said repeatedly that you have to  
11 prove up each element in some form.

12 And on the related goods,  
13 unless the goods are identical, there  
14 must be some proof on that point.

15 And I know of cases where you  
16 have -- that come out different ways on  
17 different kinds of goods, depending on  
18 the proof that's been offered up.

19 Q. Would your response be pretty  
20 much the same with regard to Section 4,  
21 "the goods are impulse purchases," with  
22 regard to the cases cited there in?

23 A. Generally, yes.

24 Again, depending on what the  
25 record is in the particular proceeding.

1 PAUL W. REIDL

2 As I said here, there were  
3 unanswered requests for admission.

4 MR. RANNELLS: I have no further  
5 questions.

6

7 EXAMINATION BY MR. SCHLOSS:

8 Q. Mr. Reidl, just a very brief  
9 redirect.

10 Do you want to take a break  
11 first?

12 A. Bring it on.

13 Q. In several different Exhibits  
14 that Mr. Rannells went through with you  
15 this afternoon, you were shown various  
16 abstracts, printouts of abstracts from  
17 the TESS database.

18 Do you recall that?

19 A. Yes.

20 Q. Do those abstracts provide any  
21 information about how the marks at issue  
22 were used?

23 A. No. As I testified during  
24 cross, you need to have more facts and  
25 more information in order to make the

1 PAUL W. REIDL

2 assessments that I was asked to make.

3 Q. I believe you also testified on  
4 cross, Mr. Reidl, that the analysis as to  
5 whether a goods/place association exists  
6 is also dependent on particular facts of  
7 a case; is that right?

8 A. Yes.

9 Q. Do the relevant facts in that  
10 analysis include the way in which a  
11 particular term is used?

12 A. Yes.

13 Q. Finally, Mr. Reidl, you were  
14 shown on cross a list of other geographic  
15 locations that have the word pinnacles in  
16 their name.

17 Did you see whether any of  
18 those -- and feel free to -- what was the  
19 Exhibit? Exhibit 29, and feel free to  
20 look through it again.

21 But did you notice whether  
22 there were any places identified on that  
23 list that are called Pinnacles Ranches?

24 A. There were none.

25 Q. Mr. Reidl, in your review of

1 PAUL W. REIDL

2 COLAs and marketing materials in the  
3 course of preparing your reports for your  
4 testimony today, did you see any facts  
5 that bear on the issue of whether  
6 Franciscan sought to create a goods/place  
7 association with the mark Pinnacles  
8 Ranches or the term Pinnacles Ranches?

9 A. Yes.

10 Q. And how would you characterize  
11 the material that you saw?

12 A. The maps. There was the large  
13 color map that we saw in one Exhibit. It  
14 showed the Pinnacles Ranches Vineyards  
15 adjacent to the Pinnacle Monument.

16 There were the back labels  
17 which showed Pinnacles as a geographic  
18 place.

19 And there may have been some  
20 other things.

21 Q. And in making the creative and  
22 marketing choices that it did, do you  
23 think Franciscan was attempting to call  
24 consumer attention to the influence of  
25 the local climate on the wine that it



1 PAUL W. REIDL

2 sold?

3 MR. RANNELLS: Objection.

4 Doesn't require or lend itself to  
5 expert testimony.

6 A. As I talked -- yes, the answer  
7 is yes.

8 As I talked about, at several  
9 points during this testimony, terroir,  
10 including the soils and climate, the  
11 geographic location, are very important  
12 to creating credibility for the wine,  
13 authenticity for the wine, and in the  
14 consumer message to the wine that  
15 something is special about it.

16 And what Franciscan has done in  
17 terms of the use of Pinnacles Ranches is  
18 to use that as a vineyard designation and  
19 as a platform for the story about the  
20 terroir that influences the taste  
21 characteristics of the wine.

22 Q. Mr. Reidl, do you recall  
23 whether the map that you mentioned a  
24 moment ago referenced Pinnacles Ranches  
25 or Pinnacles?

1 PAUL W. REIDL

2 A. The 8-by-10 color map did.

3 Q. I am sorry, did?

4 A. We looked at an Exhibit.

5 Q. Yeah. Drawing your attention  
6 to the map that appeared on the back  
7 label of the Chardonnay that was shown in  
8 Exhibit 19, does your consulting Exhibit  
9 19 refresh your recollection as to, as to  
10 how the location is -- in question is  
11 displayed?

12 A. Yes. It shows, on the map of  
13 California, with the star, the general  
14 area. Then the map shows, in sort of  
15 hatch marks below Pinnacle Ranches, where  
16 it appears with respect to the mountains,  
17 and the highway and the Pacific Ocean.

18 MR. SCHLOSS: Thank you. No  
19 further questions.

20 MR. RANNELLS: No further  
21 questions.

22 (Time noted: 4:48 p.m.)

23

24

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PAUL W. REIDL

25

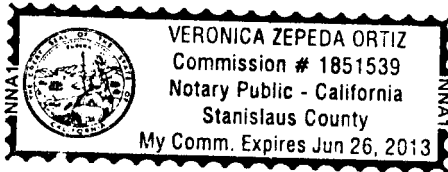
PAUL W. REIDL

*Paul W. Reidl*

Subscribed and sworn to  
before me this 4th  
day of February, 2011.

*W. J. G.*

Notary Public



## I N D E X

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25		The court reporter has retained all exhibits.	

## 1 CERTIFICATION

2  
3 I, Dawn Matera, a Notary Public for  
4 and within the State of New York, do  
5 hereby certify:

6 That the witness whose testimony as  
7 herein set forth, was duly sworn by me;  
8 and that the within transcript is a true  
9 record of the testimony given by said  
10 witness.

11 I further certify that I am not  
12 related to any of the parties to this  
13 action by blood or marriage, and that I  
14 am in no way interested in the outcome of  
15 this matter.

16 IN WITNESS WHEREOF, I have hereunto  
17 set my hand this 26th day of January,  
18 2011.

19  
20 Dawn Matera

21 Dawn Matera

22 \* \* \*



ERRATA SHEET  
 VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Franciscan v White Rock  
 DATE OF DEPOSITION: January 26, 2011  
 WITNESS' NAME: PAUL W. REIDL

PAGE	LINE(S)	CHANGE	REASON
5	/	/	/
6	/	/	/
7	/	/	/
8	/	/	/
9	/	/	/
10	/	/	/
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17	/	/	/
18	/	/	/

PAUL W. REIDL  
 SUBSCRIBED AND SWORN TO  
 BEFORE ME THIS \_\_\_\_\_ DAY  
 OF \_\_\_\_\_, 2011.

NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

# ERRATA SHEET

VERITEXT/NEW YORK REPORTING, L.L.C.

CASE NAME : Franciscan v. White Rock

DATE OF DEPOSITION : January 26, 2011

WITNESS'S NAME : PAUL W. REIDL

Page	Line	Change	Reason
4	13	Strike the word "of"	Clarity & Accuracy
8	19	Change "on" to "in"	Clarity & Accuracy
10	12	Change "of" to "in"	Clarity & Accuracy
10	23	Change "Association. And" to "Association, and"	Clarity & Accuracy
11	22	Change "E&J" to E. & J."	Clarity & Accuracy
20	7	Change "climate that" to "climate, and that"	Clarity & Accuracy
52	21	Change "to" to "by"	Clarity & Accuracy
57	19	Change "citing" to "siting"	Clarity & Accuracy
73	20	Change "patent trademark office" to "Patent and Trademark Office"	Clarity & Accuracy
74	20-21	Change "patent trademark office" to "Patent and Trademark Office"	Clarity & Accuracy
77	22	Change "or" to "and"	Clarity & Accuracy
79	12-13	Change "principal register" to Principal Register	Clarity & Accuracy
80	12	Change "was" to "were"	Clarity & Accuracy
80	20	Change "board" to "Board"	Clarity & Accuracy
82	13	Change "finger" to "vineyard"	Clarity & Accuracy
82	14	Change "designation place" to "designation of place"	Clarity & Accuracy
83	16	Change "indicate" to "indicating"	Clarity & Accuracy
88	20	Change "on Pinnacles" to "on a Pinnacles"	Clarity & Accuracy
95	6	Delete "and"	Clarity & Accuracy
102	12	Change "Pinnacle" to "Pinnacles"	Clarity & Accuracy
105	19-20	Change "national monument" to "National Monument"	Clarity & Accuracy
106	11	Change "history" to "industry"	Clarity & Accuracy
107	5, 9	Change "prohibition" to "Prohibition"	Clarity & Accuracy
117	17-18	Change "past the publication" to "passed the publication period"	Clarity & Accuracy
120	8	Change "Get" to "Got."	Clarity & Accuracy
122	15	Change "water courses" to "watercourses"	Clarity & Accuracy
131	12	Change "to" to "2"	Clarity & Accuracy
138	8	Change "say" to "saying"	Clarity & Accuracy
138	14	Change "retailers" to "retailer's"	Clarity & Accuracy
138	15	Change "distributor says" to "distributor's"	Clarity & Accuracy
138	23	Change "articulated." to "articulated:"	Clarity & Accuracy
138	24	Change "If" to "If."	Clarity & Accuracy

139	2	Change "ours," to "ours,""	Clarity & Accuracy
140	2	Change "horizontally" to "horizontal"	Clarity & Accuracy
140	10	Change "a" to "an"	Clarity & Accuracy
141	17	Change "you. Goes" to "you, goes"	Clarity & Accuracy
141	19	Change "bucket. You" to "bucket, you."	Clarity & Accuracy
143	3	Change "what's" to "that's"	Clarity & Accuracy
143	5	Change "no where" to "nowhere."	Clarity & Accuracy
145	19	Change "one." to "one vineyard."	Clarity & Accuracy
146	9	Change "pino" to "pinot"	Clarity & Accuracy

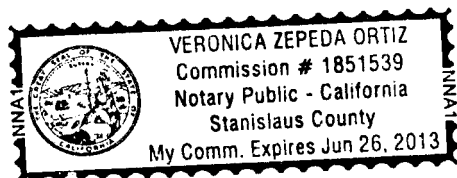
Sworn to under penalty of perjury.

Paul W. Reid

February 4, 2011

State of California County of  
Stanislaus  
 Subscribed and sworn to (or affirmed)  
 before me on this 4<sup>th</sup> day of February, 2011, by  
Paul W. Reid  
 proved to me on the basis of satisfactory evidence  
 to be the person(s) who appeared before me.  
 Signature WR

(Seal)



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